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## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Parts 18, 19, 24, 25, 26, 27, 28, and 30**

**[Docket No. TTB-2016-0013; T.D. TTB-146; Re: Notice No. 167]**

**RIN: 1513-AC30**

### **Changes to Certain Alcohol-Related Regulations Governing Bond Requirements and Tax Return Filing Periods**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Temporary rule; Treasury decision; cross reference to notice of proposed rulemaking.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) is amending its regulations relating to alcohol excise taxes to implement certain changes made to the Internal Revenue Code of 1986 (IRC) by the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). This rulemaking implements section 332 of the PATH Act, which amends the IRC to change tax return due dates and remove bond requirements for certain eligible taxpayers. Section 332 authorizes a new annual return period for taxpayers paying taxes imposed with respect to distilled spirits, wines, and beer on a deferred basis who reasonably expect to be liable for not more than \$1,000 in such taxes imposed for the calendar year and who are liable for not more than \$1,000 in such taxes in the preceding calendar year. Section 332 also removes bond requirements for

taxpayers who are eligible to pay excise taxes on distilled spirits, wines, and beer using quarterly or annual return periods and who pay those taxes on a deferred basis. Under section 332, such taxpayers are exempt from bond requirements with respect to distilled spirits and wine only to the extent those products are for nonindustrial use. TTB is soliciting comments from all interested parties on these amendments through a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]..

**FOR FURTHER INFORMATION CONTACT:** Ben Birkhill, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; telephone 202–453–2265.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

**I.The PATH Act**

**II. TTB Authority**

A. Provisions Governing Tax Payment

B. Provisions Governing Bonds

C. Delegation of Authority

**III. The TTB Regulations**

**IV. Overview of the Amendments to the Regulations**

**V. Major Amendments Relating to Tax Returns**

A. Incorporation of Annual Return Filing Period

- B. Elimination of Non-Statutory Annual Return Period for Certain Wine Premises

## **VI. Bond Exemption Eligibility**

- A. Circumstances Where Section 5061(d)(4)(A) Applies to a Taxpayer
- B. Types of Alcohol Subject to the Exemption
- C. Summary of Eligibility Criteria for the Bond Exemption

## **VII. Other Bond-Related Amendments**

- A. Retention of Bond-Related Terms in the Regulations
- B. Incorporation of Cash Bond Requirements
- C. Brewers Holding Bonds with Flat \$1,000 Penal Sums
- D. Qualification for the Bond Exemption by Applicants
- E. Qualification for the Bond Exemption by Existing Proprietors
- F. New Bonds for Previously Exempt Proprietors

## **VIII. Miscellaneous and Technical Amendments**

- A. Amendments to 27 CFR Parts 18 and 30
- B. Technical Amendments Relating to Surety and Collateral Bonds
- C. Updates to Form Numbers in 27 CFR Parts 26 and 28
- D. Obsolete Regulations in 27 CFR Part 28 Relating to TTB Form 5110.68

## **IX. Public Participation**

## **X. Regulatory Analyses and Notices**

- A. Regulatory Flexibility Act
- B. Executive Order 12866
- C. Paperwork Reduction Act
- D. Inapplicability of Prior Notice and Comment and Delayed Effective Date Procedures

## **XI. Drafting Information**

## **List of Subjects**

### **Amendments to the Regulations**

#### **I. The PATH Act**

On December 18, 2015, the President signed into law the Consolidated Appropriations Act, 2016 (Public Law 114–113). Division Q of this Act is titled the Protecting Americans from Tax Hikes Act of 2015 (PATH Act). Section 332 of the PATH Act amends the Internal Revenue Code of 1986 (IRC) to change tax return due dates and remove bond requirements for certain eligible taxpayers. These PATH Act amendments apply beginning January 1, 2017, to certain taxpayers who reasonably expect to be liable for not more than \$50,000 in taxes imposed with respect to distilled spirits, wines, and beer for the calendar year and who were not liable for more than \$50,000 in such taxes in the preceding calendar year.

Section 332 of the PATH Act amends the IRC to authorize a new annual tax return period in addition to the semimonthly and quarterly tax return periods that were authorized for excise taxpayers under the IRC prior to the enactment of the PATH Act. Under the PATH Act, taxpayers must pay taxes imposed with respect to distilled spirits, wines, and beer on a deferred basis using semimonthly periods unless they meet the tax liability limits for the use of annual or quarterly deferred payment periods. As discussed further below, deferred payment of tax refers to payment using one of the three return periods prescribed under the IRC rather than payment each time the tax becomes due. To use the new annual deferred payment period, the taxpayer must reasonably expect to be liable for not more than \$1,000 in excise taxes imposed with respect to distilled spirits,

wines, and beer for the calendar year and must be liable for not more than \$1,000 in such taxes in the preceding calendar year. To use quarterly deferred payment periods, the taxpayer must reasonably expect to be liable for not more than \$50,000 in such taxes imposed for the calendar year and must be liable for not more than \$50,000 in such taxes in the preceding calendar year.

Section 332 also amends several provisions of the IRC to remove bond requirements for certain eligible taxpayers. To be exempt from bond requirements, taxpayers must be eligible to pay excise taxes imposed with respect to distilled spirits, wines, and beer using quarterly or annual return periods and must pay such taxes on a deferred basis. In addition, taxpayers are exempt from bond requirements with respect to distilled spirits and wine only to the extent those products are for nonindustrial use. These amendments are discussed further below.

## **II. TTB Authority**

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers provisions in chapter 51 of the IRC pertaining to the taxation of distilled spirits, wines, and beer (see title 26 of the United States Code (U.S.C.), chapter 51 (26 U.S.C. chapter 51)). Sections 5001, 5041, and 5051 of the IRC (26 U.S.C. 5001, 5041, and 5051) impose tax on distilled spirits, wines, and beer produced in or imported into the United States. Generally, such taxes are determined (i.e., become due for payment) when they are removed from qualified facilities in the United States or imported as provided in sections 5006, 5043, and 5054 of the IRC (26 U.S.C. 5006, 5043, and 5054). In addition, section 7652 of the IRC (26

U.S.C. 7652) imposes tax upon distilled spirits, wines, and beer coming into the United States from Puerto Rico and the U.S. Virgin Islands under certain circumstances. The tax imposed on products under section 7652 is equal to the internal revenue tax imposed in the United States upon like articles of domestic manufacture.

A. Provisions Governing Tax Payment

Section 5061 of the IRC (26 U.S.C. 5061) governs the collection of excise tax on distilled spirits, wines, and beer. Section 5061(a) states that such taxes shall be collected on the basis of a return and gives the Secretary of the Treasury (the Secretary) the authority to prescribe regulations relating to such returns. Section 5061(d) prescribes the time periods and due dates for paying such taxes by return on a deferred basis. Section 5061(d)(1) provides that the last day for payment of such taxes shall be the 14th day after the last day of the semimonthly period during which the product is withdrawn for deferred payment of tax from certain qualified facilities in the United States. Sections 5061(d)(2) and 5061(d)(3) prescribe similar semimonthly periods and due dates for imported distilled spirits, wines, and beer and for such products brought into the United States from Puerto Rico.

TTB collects excise tax paid under section 5061(d)(1) and 5061(d)(3), which govern, respectively, withdrawals of distilled spirits, wines, and beer from qualified facilities in the United States and certain shipments of distilled spirits, wines, and beer into the United States from Puerto Rico. In the latter case, section 7652(a)(2) provides authority for payment of the tax before shipment to

the United States from Puerto Rico. In general, U.S. Customs and Border Protection (CBP) collects taxes paid under section 5061(d)(2) on removals of imported distilled spirits, wines, and beer. These taxes include those paid on distilled spirits, wines, and beer from foreign countries or from the U.S. Virgin Islands.

Section 5061(d)(4), as amended by the PATH Act, authorizes eligible taxpayers to use annual or quarterly tax return periods instead of semimonthly periods, under certain circumstances. Section 5061(d)(4)(A)(ii) provides that, in the case of any taxpayer who reasonably expects to be liable for not more than \$1,000 in excise taxes imposed for the calendar year and who was liable for not more than \$1,000 in such taxes in the preceding calendar year, the last day for payment of tax is the 14th day after the last day of the calendar year. Section 5061(d)(4)(A)(i) provides that, in the case of any taxpayer who reasonably expects to be liable for not more than \$50,000 in excise taxes imposed with respect to distilled spirits, wines, and beer for the calendar year and who was liable for not more than \$50,000 in such taxes in the preceding calendar year, the last day for payment of tax is the 14th day after the last day of the calendar quarter. Section 5061(d)(4)(C) defines the term “calendar quarter” as the three-month period ending on March 31, June 30, September 30, or December 31.

Taxpayers who use annual or quarterly return periods and exceed the \$1,000 or \$50,000 limits described in the previous paragraph must pay such taxes more frequently, as provided in section 5061(d)(4)(B). Taxpayers using quarterly periods must use semimonthly periods for any portion of the calendar

year following the first date on which the aggregate amount of such tax due during such calendar year exceeds \$50,000, and taxpayers using annual periods must use quarterly periods for any portion of the calendar year following the first date on which the aggregate amount of such tax due during such calendar year exceeds \$1,000. Section 5061(d)(4)(B) also provides that any tax not paid on these dates is due either on the 14th day after the last day of the semimonthly period in which such date occurs (in the case of taxpayers who exceed the \$50,000 limit) or on the 14th day after the last day of the calendar quarter in which such date occurs (in the case of taxpayers who exceed the \$1,000 limit).

Under some circumstances, the IRC authorizes the removal of distilled spirits, wines, and beer from facilities in the United States without paying the taxes imposed on such products. Examples of removals for which the IRC does not require payment of the tax include certain transfers of imported distilled spirits, wines, and beer to qualified facilities in the United States (see 26 U.S.C. 5232, 5364, and 5418), certain transfers between qualified facilities within the United States (see 26 U.S.C. 5212, 5362(b), and 5414), certain withdrawals for exportation from the United States (see 26 U.S.C. 5214(a)(4), 5362(c)(1), and 5053(a)), and certain withdrawals for use in the United States for other than alcohol beverage purposes (see 26 U.S.C. 5214(a)(1)-(3), 5364(d), and 5053(b)). In the last case, some IRC provisions refer to these nonbeverage purposes as the “industrial use” of alcohol (see, e.g., subchapter D of chapter 51 of the IRC, “Industrial Use of Distilled Spirits”). The provisions of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. chapter 8, which TTB also administers,



do not apply to distilled spirits and wine for industrial use (see 27 U.S.C. 211(a)(5) and (6), which define these types of alcohol as distilled spirits and wine for “nonindustrial use”). The industrial and nonindustrial uses of distilled spirits and wine are discussed further below.

#### B. Provisions Governing Bonds

The IRC also contains provisions requiring certain persons who are liable for taxes imposed with respect to distilled spirits, wines, and beer to furnish bonds, which are formal guarantees to pay tax obligations under the IRC (see, e.g., 26 U.S.C. 5173, 5354, and 5401(b)). Subject to the exceptions discussed below, section 5551(a) of the IRC (26 U.S.C. 5551(a)) requires approval of such bonds for certain businesses as a condition of commencing operations.

Generally, the producer or the importer of the distilled spirits, wines, and beer is liable for taxes imposed until that person either pays the tax or takes some other action for which the IRC relieves the person of the liability. In the latter case, the IRC may relieve persons from liability based on the transfer or withdrawal of the distilled spirits, wines, and beer under certain circumstances described in the preceding paragraph, such as withdrawal and exportation (see 26 U.S.C. 5005, 5043, 5054, and 5056). Bonds therefore protect the revenue by covering the excise tax liability associated with the distilled spirits, wines, and beer until that liability is relieved under the IRC.

Section 332 of the PATH Act amends several provisions of the IRC to remove bond requirements for certain eligible taxpayers. The new bond exemption is set forth in new subsection (d) of section 5551 of the IRC. The

taxpayer's eligibility for the bond exemption is based on whether section 5061(d)(4)(A) applies to the taxpayer. Section 5061(d)(4)(A) authorizes the use of quarterly and annual return periods for payment of excise taxes imposed with respect to distilled spirits, wines, and beer where the tax liability does not exceed the \$1,000 and \$50,000 limits discussed above. However, the bond exemption is limited to bonds "covering operations or withdrawals of distilled spirits or wines for nonindustrial use or of beer." Specifically, section 5551(d)(1) provides that "[d]uring any period to which subparagraph (A) of section 5061(d)(4) applies to a taxpayer (determined after application of subparagraph (B) thereof), such taxpayer shall not be required to furnish any bond covering operations or withdrawals of distilled spirits or wines for nonindustrial use or of beer." In addition, section 5551(d)(2) provides that "any taxpayer for any period described in [section 5551(d)(1)] shall be treated as if sufficient bond has been furnished for purposes of covering operations and withdrawals of distilled spirits or wines for nonindustrial use or of beer for purposes of any requirements relating to bonds under this chapter." Finally, section 332 of the PATH Act also amends other provisions of the IRC to reference the bond exemption in section 5551(d). These provisions are sections 5173, 5351, and 5401 of the IRC.

### C. Delegation of Authority

TTB administers the provisions of the IRC and FAA Act discussed above, and their implementing regulations, pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01, dated December

10, 2013 (superseding Treasury Department Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in administration and enforcement of these laws.

### **III. The TTB Regulations**

The TTB regulations implementing the IRC provisions discussed above relating to tax payment and bonds are in chapter I of title 27 of the Code of Federal Regulations (27 CFR). These regulations include provisions governing certain distilled spirits, wine, and beer facilities in the United States (27 CFR parts 19, 24, and 25), the shipment of distilled spirits, wines, and beer from Puerto Rico and the U.S. Virgin Islands to the United States (27 CFR part 26), the importation of distilled spirits, wines, and beer from foreign countries into the United States (27 CFR part 27), and the exportation of distilled spirits, wines, and beer from the United States (27 CFR part 28).

The regulations in 27 CFR parts 19, 24, and 25 govern, respectively, the operations of distilled spirits plants (DSPs), certain wine premises, and breweries in the United States. Under 27 CFR part 24, bonded wine cellars (including bonded wineries) are wine premises that are authorized to engage in operations involving non-taxpaid wine. Proprietors of facilities subject to the regulations in 27 CFR parts 19, 24, and 25 must receive approval from TTB to operate (see 27 CFR 19.72, 24.105, and 25.61). Such operations may include production, receipt, and removal of distilled spirits, wines, and beer. When the proprietor of the facility removes distilled spirits, wines, or beer on which tax has been

imposed but not paid, the proprietor must pay the tax unless the IRC authorizes the removal without paying the tax, as discussed above.

If the tax must be paid for the removal, the proprietor of the facility must file an Excise Tax Return, TTB Form 5000.24, for prepayment or deferred payment of tax (see 27 CFR 19.229, 24.271, 24.275, 25.164, and 25.175). The term “prepayment” means that the proprietor pays the tax before the removal of the distilled spirits, wines, or beer from the facility. The term “deferred payment” means that the proprietor uses one of the return periods prescribed under section 5061(d) of the IRC to pay tax due for removals that occur during that period. Section 24.273 of the TTB regulations (27 CFR 24.273) also authorizes a bonded wine cellar to file an excise tax return annually if the proprietor paid wine excise taxes in an amount less than \$1,000 during the previous calendar year or if the proprietor of a newly established premises expects to pay less than \$1,000 in wine excise taxes before the end of the calendar year. As discussed further below, this annual return period was authorized under the regulations prior to the enactment of the PATH Act and is not considered to be a deferred payment period for purposes of section 5061(d).

The TTB regulations in parts 19, 24, and 25 also prescribe requirements for bonds that DSPs, certain wine premises, and breweries must furnish to TTB. Bonds must be guaranteed by an approved corporate surety or by deposit of collateral, such as certain acceptable securities, with TTB (see, e.g., 27 CFR 19.153 and 19.154). The regulations also include requirements relating to the “penal sums” of these bonds. The term “penal sum” refers to the amount of

money guaranteed to be paid under the bond for tax obligations imposed by the IRC if the proprietor does not satisfy those obligations, such as the payment of tax due. The penal sum of a bond is generally based on the proprietor's liability for excise taxes imposed but not paid (see 27 CFR 19.166, 24.148, and 25.93). In some cases involving distilled spirits and wine, the regulations require proprietors to furnish bonds that specifically cover the taxes on products removed for deferred payment of tax until the time the proprietor pays the tax (see 27 CFR 19.164 and 24.146(b)).

The TTB regulations in 27 CFR part 26 pertain to shipment of distilled spirits, wines, and beer (as well as certain products manufactured using distilled spirits, wines, and beer) to the United States from Puerto Rico and the U.S. Virgin Islands. Generally, manufacturers of these products in Puerto Rico and the U.S. Virgin Islands are not required to receive approval from TTB to operate. However, if manufacturers in Puerto Rico ship the products to the United States, they must pay tax to TTB unless a specific provision authorizes the shipment without paying the tax (see discussion in the next paragraph for examples of such shipments). The regulations in 27 CFR part 26, subpart E, govern the payment of excise tax on products manufactured in Puerto Rico and shipped to the United States, and they contain bond requirements for persons who pay tax on a deferred basis using one of the tax periods prescribed under section 5061(d) the IRC. But because CBP (rather than TTB) collects taxes on products shipped to the United States from the U.S. Virgin Islands, the TTB regulations do

not include provisions governing the payment of tax on products subject to 27 CFR part 26.

The regulations in 27 CFR part 26 also include provisions governing the shipment to the United States of certain distilled spirits for industrial use, as well as certain products for industrial use made using distilled spirits. Persons in Puerto Rico and the U.S. Virgin Islands who manufacture these products may ship the products to the United States without incurring tax liability under the circumstances described in 27 CFR 26.36 and 26.201. Statutory authority relating to these types of tax-exempt shipments is set forth in section 5314 of the IRC (26 U.S.C. 5314). Under § 26.36(b) and (c), distillers in Puerto Rico who ship tax-exempt distilled spirits to the United States under this authority are subject to the requirements in 27 CFR part 19 governing DSPs, including requirements relating to receiving approval to operate and furnishing bonds. Distillers in the U.S. Virgin Islands who ship tax-exempt distilled spirits under § 26.201(b) and (c) are not subject to 27 CFR part 19 (and thus do not furnish bonds to TTB under 27 CFR part 19 covering such shipments), but these distillers must qualify under regulations issued by the Governor of the U.S. Virgin Islands as provided in § 26.201(b) and (c).

The TTB regulations in 27 CFR part 27 relate to the importation of distilled spirits, wines, and beer into the United States from foreign countries. Persons who pay taxes to CBP on such imported products under section 5061(d)(2) are not required to furnish bonds to TTB. However, qualified facilities in the United States that receive transfers of the products without payment of tax from customs

custody must furnish bonds to TTB as provided in 27 CFR parts 19, 24, and 25 (see 27 CFR part 27, subpart L; see also ATF Procedures 98–2 and 98–3 issued by the Bureau of Alcohol, Tobacco and Firearms, TTB's predecessor agency).

The TTB regulations in 27 CFR part 28 govern the exportation of distilled spirits, wines, and beer from the United States, including the exportation of taxpaid and non-taxpaid distilled spirits, wines, and beer. As prescribed in 27 CFR part 28, subparts I, K, and L, distilled spirits, wines, and beer on which taxes have been paid may be exported with benefit of drawback (see also 26 U.S.C. 5055 and 5062). Exportation with benefit of drawback refers to a procedure under which a person may file a claim for a payment from TTB equal to the taxes paid on the product based on the exportation of the product in accordance with the IRC provisions and the TTB regulations cited in this paragraph.

Non-taxpaid distilled spirits, wines, and beer may also be removed for export from DSPs, bonded wine cellars (including bonded wineries), and breweries subject to certain requirements specified in 27 CFR part 28. When the DSP, bonded wine cellar, or brewer acts as the exporter of the product for purposes of the TTB regulations, the bonds required under 27 CFR parts 19, 24, and 25, respectively, cover the tax liability associated with the alcohol (see 27 CFR 28.58–28.60, 28.92, 28.122, 28.142, and 28.152). Alternatively, a person other than a DSP or bonded wine cellar may act as the exporter of the product in some circumstances if the person furnishes a bond as provided in 27 CFR 28.61–28.64 (the regulations do not authorize persons other than brewers to act as exporters of non-taxpaid beer). In any case where non-taxpaid products are

removed for export, the person acting as the exporter for purposes of the TTB regulations must also complete a TTB form documenting the exportation (TTB Form 5100.11 in the case of distilled spirits and wine, and TTB Form 5130.12 in the case of beer).

#### **IV. Overview of the Amendments to the Regulations**

This document amends the TTB regulations in 27 CFR parts 19, 24, 25, 26, 27, and 28 to implement the statutory provisions of section 332 of the PATH Act. In addition, this rulemaking makes minor amendments to certain bond-related regulations in 27 CFR parts 18 and 30 relating to these statutory changes. This document also includes several technical amendments to update certain bond-related regulations. These amendments are discussed further below.

#### **V. Major Amendments Relating to Tax Returns**

##### **A. Incorporation of Annual Return Filing Period**

TTB is amending the regulations in 27 CFR parts 19, 24, 25, and 26 to incorporate the new annual tax return period provisions in section 5061(d)(4)(A)(ii) of the IRC, which provides that the last day for deferred payment of tax is the 14th day after the last day of the calendar year in the case of any taxpayer who reasonably expects to be liable for not more than \$1,000 in excise taxes imposed on distilled spirits, wines, and beer for the calendar year and who was liable for not more than \$1,000 in such taxes the preceding calendar year. TTB is also amending the regulations to reflect new section 5061(d)(4)(B)(ii), which provides that the annual tax return period provision does not apply to



taxpayers for any portion of the calendar year following the first date on which the aggregate amount of excise tax due during such calendar year exceeds \$1,000. As discussed above, the annual tax return period provision provides an exception to the general rule in section 5061(d) that requires deferred payment of such taxes using semimonthly periods. The specific regulations amended to reflect this new period are 27 CFR 19.235, 19.236, 24.271, 25.164, and 26.112. TTB is not amending any regulations in 27 CFR parts 27 and 28 to reflect this statutory change because these regulations do not contain provisions governing the deferred payment of taxes to TTB.

In general, the amendments incorporating the new annual return period are modeled on existing provisions in §§ 19.235, 19.236, 24.271, 25.164, and 26.112 governing quarterly return periods, which are used by taxpayers who reasonably expect to be liable for not more than \$50,000 in taxes imposed on distilled spirits, wines, and beer for the calendar year and who were liable for not more than \$50,000 in the preceding calendar year. The statutory authority for quarterly return periods in section 5061(d)(4)(A) of the IRC (now designated as section 5061(d)(4)(A)(i) under the PATH Act amendments) was originally enacted in 2005 as part of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109-59, 119 Stat. 1144. In the 2006 temporary rule published in the **Federal Register** that originally implemented the quarterly return period procedure (T.D. TTB-41, 71 FR 5598 (2006)), TTB interpreted the statutory language in section 5061(d)(4)(A) as providing that the quarterly return period procedure was optional rather than

mandatory, meaning that a taxpayer could choose to defer payment of excise tax using semimonthly return periods even if the taxpayer met the criteria for using quarterly periods. TTB noted that it was adopting this interpretation to provide flexibility for taxpayers, and TTB cited legislative history to show that the interpretation was a permissible construction of the statute. TTB subsequently finalized the regulations reflecting this interpretation (see T.D. TTB-94, 76 FR 52862 (2011)).

Because the language in section 5061(d)(4)(A)(ii) providing for the annual return period procedure is identical in relevant respects to the language in 5061(d)(4)(A)(i) relating to quarterly returns, TTB interprets this language as also providing for the optional, rather than mandatory, use of annual return periods by taxpayers who meet the relevant criteria. TTB believes that adopting this interpretation will provide flexibility for taxpayers who are eligible to use annual return periods but who wish to pay taxes more frequently. This interpretation is reflected in the amendments to §§ 19.235, 19.236, 24.271, 25.164, and 26.112, which provide that eligible taxpayers “may choose to use an annual return period” [emphasis added].

#### B. Elimination of Non-Statutory Annual Return Period for Certain Wine Premises

Under current 27 CFR 24.273, a wine premises proprietor is authorized to file an excise tax return annually if the proprietor paid wine excise taxes in an amount less than \$1,000 during the previous calendar year or if the proprietor of a newly established premises expects to pay less than \$1,000 in wine excise taxes before the end of the calendar year. An eligible proprietor must file such

returns within 30 days after the end of the calendar year. Historically, the regulations had authorized a proprietor to allocate up to \$1,000 of the penal sum of the proprietor's wine bond to cover taxes on wine removed but not yet paid (see 27 CFR 24.146(a)). Because such removals up to \$1,000 were not required to be covered by a tax deferral bond under § 24.146(b), TTB previously took the position that the proprietor did not have to pay taxes associated with the removals using one of the deferred payment periods (semimonthly or quarterly) authorized under section 5061(d) (see T.D. TTB-41, 71 FR 5598, 5599 (02/06/2006)).

Since the PATH Act established a new annual tax return period for proprietors who are liable for not more than \$1,000 in excise taxes annually and eliminated the requirement to hold a tax deferral bond (see bond-related discussion below), TTB has determined that it is no longer necessary to retain the annual return filing provisions found in § 24.273. Accordingly, TTB is amending the regulations to remove § 24.273. Proprietors who previously filed tax returns annually under this section may instead file tax returns annually when authorized under § 24.271(b)(1)(ii). Because the PATH Act provisions do not become effective until January 1, 2017, TTB is amending § 24.271(b)(2) to clarify that a proprietor filing an annual return covering the 2016 calendar year must file the return not later than January 30, 2017, which would have been the due date under now-removed § 24.273. TTB is also amending §§ 24.271 and 24.323 to eliminate references to § 24.273, and TTB is amending § 24.300 to remove the

reference to § 24.273 and replace it with a reference to the annual filing provision in § 24.271(b)(1)(ii).

## **VI. Bond Exemption Eligibility**

TTB is amending the regulations in 27 CFR parts 19, 24, 25, 26, and 28 to implement new section 5551(d)(1) of the IRC, which provides that a taxpayer is not required to obtain certain bonds “during any period to which [section 5061(d)(4)(A)] applies to a taxpayer (determined after application of [section 5061(d)(4)(B)] thereof)[.]” Section 5061(d)(4)(A) contains the quarterly and annual return filing provisions for taxpayers who are liable for not more than \$50,000 per year in taxes imposed on distilled spirits, wines, and beer. The bond regulations amended in this temporary rule are 27 CFR 19.151, 24.146, 25.91, 25.274, 26.66–26.68, 28.58, and 28.60–28.64. TTB is not amending the regulations in 27 CFR part 27 in this respect because those regulations do not impose bond requirements.

### **A. Circumstances Where Section 5061(d)(4)(A) Applies to a Taxpayer**

As discussed above, taxpayers may voluntarily choose to use semimonthly return periods for deferred payment of tax on distilled spirits, wines, and beer even if they meet the criteria in section 5061(d)(4)(A) to pay taxes using quarterly or annual tax returns. These criteria are that the taxpayer must reasonably expect to be liable for not more than \$1,000 in taxes (in the case of annual returns) or \$50,000 in taxes (in the case of quarterly returns) for the calendar year and must have been liable for not more than these respective quantities in the preceding calendar year. Section 7701(a)(14) of the IRC (26

U.S.C. 7701(a)(14)) defines the term “taxpayer” as “any person subject to an internal revenue tax.” The term therefore includes persons who are liable for excise taxes imposed but not necessarily due for payment, as well as persons who are liable for payment of the tax. For purposes of the tax return filing provisions, the TTB regulations define the term “taxpayer” as an individual, corporation, partnership, or other entity that is assigned a single Employer Identification Number as defined in 26 CFR 301.7701–12 (see §§ 19.235(d), 24.271(b), 25.164(c), and 26.112(b)).

Since section 5061(d)(4)(A) does not mandate that taxpayers who defer payment of excise tax must use quarterly or annual return periods if they meet the criteria to use them, section 5061(d)(4)(A) applies to those taxpayers even if they choose to use semimonthly return periods instead. Accordingly, TTB does not interpret section 5551(d)(1) as requiring that taxpayers deferring payment of tax must use quarterly or annual return periods in order to be exempt from bond requirements under that provision. Even if they choose to use semimonthly periods, the taxpayers qualify for the bond exemption if they meet the criteria to pay taxes quarterly or annually under section 5061(d)(4)(A) and if they otherwise meet the bond exemption requirements in section 5551(d) as discussed further below. This interpretation is reflected in the amended regulations, which include the requirement that the taxpayer be “eligible to use an annual or quarterly return period” to qualify for the bond exemption [emphasis added].

In addition, because section 5061(d)(4)(A) does not apply to taxpayers who pay no taxes on distilled spirits, wines, or beer on a deferred basis, TTB

interprets the phrase “applies to a taxpayer” in section 5551(d)(1) as requiring a taxpayer to pay some tax on a deferred basis to be exempt from bond requirements. If a taxpayer prepays tax but never defers payment of tax, or if a taxpayer never removes distilled spirits, wines, or beer on which taxes must be paid, the taxpayer is not exempt from bond requirements under section 5551(d). This interpretation is also reflected in the regulations discussed above, which provide that the bond exemption only applies to a taxpayer who “pays tax on a deferred basis[.]” However, TTB also recognizes that taxpayers may not necessarily owe taxes during every deferred payment period that they choose to use. Therefore, the regulatory amendments also provide that a taxpayer is considered to be paying tax on a deferred basis for this purpose even if the taxpayer does not pay during every return period as long as the taxpayer intends to pay tax on a deferred basis in a future period.

TTB also notes that section 5551(d)(1) ties a taxpayer’s eligibility for the bond exemption to the taxpayer’s liability for payment of taxes due rather than the taxpayer’s liability for taxes imposed but not necessarily due. Under section 5551(d)(1), a taxpayer is eligible for the exemption only after application of section 5061(d)(4)(B), which governs when the quarterly and annual return provisions in section 5061(d)(4)(A) no longer apply to a taxpayer. Section 5061(d)(4)(B) provides that the provisions do not apply to taxpayers “for any portion of the calendar year following the first date on which the aggregate amount of tax due” on distilled spirits, wines, and beer during such calendar year exceeds \$50,000, in the case of quarterly returns, or \$1,000, in the case of

annual returns. Because the bond exemption is premised on the quantity of such taxes due for payment (rather than on the taxes imposed but not necessarily due), a taxpayer who otherwise meets the bond exemption requirements in section 5551(d)(1) is not ineligible for the exemption solely based on the fact that the taxpayer's liability for taxes imposed but not due exceeds \$50,000 annually.

As discussed above, taxpayers may be liable for taxes imposed on distilled spirits, wines, and beer based on producing the products in the United States, importing the products into the United States from foreign countries, bringing the products into the United States from Puerto Rico and the U.S. Virgin Islands, or receiving certain transfers of non-taxpaid products. These taxpayers are liable for taxes imposed until they either pay the taxes due or take some other action for which the IRC relieves the taxpayer of the liability.

#### B. Types of Alcohol Subject to the Exemption

During any period described above for which 5061(d)(4)(A) applies to a taxpayer, section 5551(d)(1) provides that such taxpayer "shall not be required to furnish any bond covering operations or withdrawals of distilled spirits or wines for nonindustrial use or of beer." As described above, the IRC references the industrial use of certain types of alcohol. In addition, the FAA Act applies to distilled spirits and wine for nonindustrial use but does not apply to distilled spirits and wine for industrial use. The TTB regulations in 27 CFR part 1, subpart D define the nonindustrial and industrial uses of these two types of alcohol for purposes of the FAA Act. Under the regulations, the term "nonindustrial use" includes, but is not limited to, all uses of distilled spirits and wine for alcohol

beverage purposes (see 27 CFR 1.70 and 1.71). Under § 1.70, the term “industrial use” includes only those uses specifically enumerated as such in the regulations. These industrial uses include the use of distilled spirits free of tax under the IRC for certain nonbeverage purposes, the use of wine without payment of tax for the production of vinegar, and the use of distilled spirits and wine for experimental purposes and in the manufacture of specified products that are unfit for beverage purposes (see 27 CFR 1.60–1.62).

TTB interprets the term “nonindustrial use” in section 5551(d)(1) as being synonymous with the same term in the FAA Act and the TTB regulations in 27 CFR part 1, subpart D. Therefore, a person is eligible for the bond exemption in section 5551(d)(1) with respect to distilled spirits and wine only to the extent the distilled spirits and wine are for nonindustrial use within the meaning of the FAA Act and these TTB regulations. The amendments to the bond regulations described above incorporate this interpretation by defining the terms “nonindustrial use” and “industrial use” with reference to the provisions in 27 CFR part 1, subpart D.

TTB also recognizes that some proprietors engage in operations and withdrawals of distilled spirits and wine both for nonindustrial and industrial use. Because such proprietors must obtain bonds to cover such alcohol for industrial use as otherwise provided in the IRC, even if they are exempt from bond requirements under section 5551(d) with respect to distilled spirits and wine for nonindustrial use, the regulatory amendments prescribe rules for proprietors to determine the relevant use of these types of alcohol for this purpose. In the case



of proprietors of DSPs and bonded wine cellars (including bonded wineries) who conduct both types of operations, the amendments in §§ 19.151(d) and 24.146(d) provide that the alcohol is considered to be for industrial use unless the proprietor designates the alcohol as solely for nonindustrial use at a specified time after production of the alcohol or upon receiving the alcohol. TTB has not incorporated a similar rule in the regulations in 27 CFR parts 26 and 28 that impose bond requirements because those bonds apply to distilled spirits and wine shipped to the United States or removed for exportation, rather than to distilled spirits and wine produced or received at the premises. Therefore, the determination pertaining to industrial use, under 27 CFR parts 26 and 28, is made when the alcohol is shipped or removed.

### C. Summary of Eligibility Criteria for the Bond Exemption

This section summarizes the discussion above regarding which taxpayers are eligible for the bond exemption under section 5551(d)(1) of the IRC.

Taxpayers must meet the following requirements to be eligible for the bond exemption:

- Taxpayers must be eligible to pay taxes quarterly or annually under section 5061(d)(4)(A) of the IRC. A taxpayer is eligible to pay taxes quarterly or annually under this provision if the taxpayer reasonably expects to be liable for not more than \$50,000 in excise taxes imposed with respect to distilled spirits, wines, and beer for the calendar year and was liable for not more than \$50,000 in such taxes in the preceding calendar year. A taxpayer is eligible for the bond exemption if the taxpayer chooses to pay taxes using semimonthly return periods

as long as the taxpayer is eligible to use quarterly or annual return periods and otherwise meets the criteria for the exemption. For purposes of this requirement, the taxpayer's liability is determined based on taxes due as a result of removals or shipments for which the IRC requires payment of the tax, rather than on taxes imposed but not necessarily due for payment.

- Taxpayers must pay tax on distilled spirits, wines, or beer on a deferred basis. A taxpayer who never pays tax on a deferred basis is not exempt from bond requirements. This category of taxpayers who are ineligible for the exemption includes taxpayers who solely prepay taxes or who never remove distilled spirits, wines, or beer on which taxes must be paid.

- Taxpayers are exempt from bond requirements with respect to distilled spirits and wine only to the extent those products are for nonindustrial use. The nonindustrial uses of distilled spirits and wine are defined in 27 CFR part 1, subpart D. The term "nonindustrial use" includes, but is not limited to, all uses of distilled spirits and wine for alcohol beverage purposes.

## **VII. Other Bond-Related Amendments**

### **A. Retention of Bond-Related Terms in the Regulations**

Section 5551(d)(2) of the IRC, as amended by the PATH Act, provides that taxpayers exempt from bond requirements under section 5551(d)(1) "shall be treated as if sufficient bond has been furnished for purposes of covering operations and withdrawals of distilled spirits or wines for nonindustrial use or of beer for purposes of any requirements relating to bonds under [chapter 51 of the IRC]." The PATH Act amendments did not eliminate bond-related terms in

chapter 51 of the IRC. Accordingly, TTB is not removing bond-related terms from the regulations. Instead, this temporary rule amends existing definitions of these terms or adds new definitions of them to provide that the terms apply to taxpayers even if they are exempt from bond requirements under section 5551(d)(1).

First, TTB is amending definitions that identify certain premises as “bonded” so that the definitions include taxpayers who are exempt from bond requirements under section 5551(d)(1). These terms include the “bonded premises” of a distilled spirits plant, “bonded winery,” “bonded wine cellar,” and “bonded wine warehouse.” Therefore, these premises will still be described as “bonded” under the regulations even if the proprietor is not required to obtain a bond. The amended definitions are in 27 CFR 19.1, 24.10, 25.11, 26.11, 27.11, and 28.11.

Second, TTB is amending or adding bond-related definitions in the regulatory sections cited above that pertain to removals and receipts of distilled spirits, wines, and beer from certain premises subject to TTB regulation. These terms include transfers of products “in bond,” removals of products “from bond,” and returns of products “to bond.” As discussed above, the IRC requires certain persons who are liable for tax to provide bonds, which cover the tax liability associated with the products until that liability is relieved under the IRC. Prior to the PATH Act amendments, these types of regulatory terms described transactions where a bond covered the tax liability associated with the distilled spirits, wines, or beer removed or received. For example, transfers in bond are

transfers of non-taxpaid products between certain premises (see, e.g., 27 CFR 19.402 and 24.280); removals from bond are removals of previously non-taxpaid products from certain premises, including withdrawals on determination of tax (see, e.g., §§ 19.229, 24.271, and 25.164); and returns to bond include receipts of previously taxpaid products on certain premises for which the IRC authorizes the proprietor of the premises to file a claim for credit or refund of the tax (see, e.g., 27 CFR 19.452). Under the amended definitions, these terms describe removals and receipts for which the proprietor is liable for the tax, even if the proprietor is not required to obtain a bond under section 5551(d)(1).

#### B. Incorporation of Cash Bond Requirements

The current bond regulations in 27 CFR parts 19, 24, 25, 26, and 28 provide that bonds must be guaranteed by an approved corporate surety or by deposit of collateral, such as certain acceptable securities, with TTB. Historically, TTB has also authorized proprietors to submit “cash bonds,” which are bonds guaranteed by the deposit of cash or its equivalent as collateral. For this purpose, cash equivalents include money orders, cashier’s checks, or personal checks. TTB policy has been that the cash (or its equivalent) deposited must be no less than the penal sums of the required bonds. The current regulation at 27 CFR 24.151 includes cash bond provisions applicable to certain wine premises, but other TTB regulations do not include such provisions.

TTB believes it is appropriate to incorporate its existing cash bond policy into the regulations in 27 CFR parts 19, 25, 26, and 28. Accordingly, TTB is amending §§ 19.154, 25.98, 26.63, 26.74, 28.53, and 28.74 to reflect this policy.

Consistent with the provisions in the current regulations governing collateral bonds guaranteed by the deposit of certain acceptable securities (which are also in §§ 19.154, 25.98, 26.63, 26.74, 28.53, and 28.74), the cash bond provisions provide that bonds may be released once liability under the bond is terminated.

C. Brewers Holding Bonds with Flat \$1,000 Penal Sums

In 2012, TTB published a temporary rule in the **Federal Register** that authorized a flat penal sum of \$1,000 for bonds held by certain brewers who reasonably expected to be liable for not more than \$50,000 in excise taxes for the calendar year and who were liable for not more than \$50,000 in such taxes for the preceding calendar year (T.D. TTB–109, 77 FR 72939 (12/07/2012)). Prior to the effective date of that temporary rule, the penal sums of bonds held by these brewers were based on a percentage of the brewer's expected maximum tax liability for the year, and the bond penal sums for a brewer were generally higher if the brewer paid taxes using quarterly return periods rather than semimonthly return periods. Because TTB concluded that authorizing a flat penal sum of \$1,000 for these brewers did not pose a risk to the revenue, the temporary rule authorized this flat penal sum under § 25.93 if the brewers paid taxes using quarterly return periods in order to reduce their tax return filing burdens. In the same issue of the **Federal Register**, TTB published a notice of proposed rulemaking that included a proposed amendment to § 25.164 that incorporated the quarterly filing requirement for brewers holding bonds with flat \$1,000 penal sums (Notice No. 131, 77 FR 72999 (2012)). TTB published a final rule in 2014 that adopted the flat \$1,000 penal sum provision in § 25.93 as a

permanent regulatory change and that finalized the amendment to § 25.164 that TTB proposed in the 2012 notice of proposed rulemaking.

Section 5551(d)(1) of the IRC, as amended by the PATH Act, eliminates bond requirements for brewers who reasonably expect to be liable for not more than \$50,000 in excise taxes for the calendar year and who were liable for not more than \$50,000 in such taxes for the preceding calendar year. Therefore, brewers who were eligible to hold bonds with flat \$1,000 penal sums under the rulemakings described in the previous paragraph are now eligible for the bond exemption under section 5551(d)(1). Accordingly, TTB is amending §§ 25.93 and 25.164 to incorporate language relating to a brewer's eligibility for this bond exemption and to provide that such eligible brewers may choose to pay taxes using quarterly or annual return periods if they meet the criteria to use those periods. Since it is no longer necessary for such brewers to obtain a bond with a flat \$1,000 penal sum because those brewers can instead qualify for the bond exemption, such brewers may choose to pay taxes quarterly or annually without having to obtain a bond with a higher penal sum.

#### D. Qualification for the Bond Exemption by Applicants

TTB is amending the regulations in 27 CFR parts 19, 24, and 25 to require that persons who apply to qualify as DSPs, bonded wine cellars (including bonded wineries), and breweries must state in their applications whether they are exempt from bond requirements under section 5551(d). TTB is not amending the regulations in 27 CFR parts 26, 27, and 28 in this respect because those regulations do not require persons to furnish bonds in order merely to qualify to

operate with TTB. For example, although certain exporters who must provide bonds as provided in §§ 28.61–28.64 may be required to obtain a basic permit as a wholesaler under the FAA Act and the TTB regulations (see 27 U.S.C. 203(c) and 27 CFR part 1), such exporters are not required to furnish a bond when they apply for this type of permit.

TTB is amending 27 CFR 19.73, 24.109, and 25.62 to require a statement in each type of application whether or not the applicant is required to provide a bond. As discussed above, eligibility for the bond exemption is determined under amended §§ 19.151, 24.146, and 25.91. TTB is also modifying the relevant application forms to include a new section where applicants specify whether they are eligible for the exemption. These forms are TTB Form 5110.41 (Registration of Distilled Spirits Plant), TTB Form 5120.25 (Application to Establish and Operate Wine Premises), and TTB Form 5130.10 (Brewer's Notice). Applicants may complete these forms using TTB's Permits Online system, which is TTB's electronic permit application system available at [ttb.gov](http://ttb.gov). The new sections in these forms spell out the criteria for eligibility for the bond exemption as provided in §§ 19.151, 24.146, and 25.91.

#### E. Qualification for the Bond Exemption by Existing Proprietors

There are two circumstances where an existing proprietor who holds a bond required under 27 CFR parts 19, 24, and 25 may subsequently become exempt from those bond requirements under section 5551(d)(1) of the IRC. First, since the bond exemption does not apply until January 1, 2017 (see section 332(c) of the PATH Act), such proprietors who receive TTB approval to operate

prior to that date will hold a bond even if the bond exemption provision applies to them starting on that date. Second, proprietors who receive TTB approval to operate no earlier than January 1, 2017 must hold a bond if they are ineligible for the bond exemption. For example, if a proprietor receives approval to operate in 2017 and reasonably expects to be liable for more than \$50,000 in excise taxes for that year, the proprietor must furnish a bond. However, that proprietor may become exempt from bond requirements in the future if the proprietor meets the requirements for the exemption under section 5551(d)(1). This may occur if the proprietor, in addition to meeting any other applicable requirements under section 5551(d)(1) (see “Bond Exemption Eligibility” section above), reasonably expects to be liable for not more than \$50,000 in excise taxes for a calendar year and is liable for not more than \$50,000 in the preceding calendar year.

TTB is amending the regulations to provide procedures for such proprietors to terminate their bonds when they become exempt from these requirements. This temporary rule adds new regulations at 27 CFR 19.136, 24.132, and 25.79 to provide that, in order to terminate their bonds, proprietors must file amendments to their TTB approvals to operate using the application forms described above (TTB Forms 5110.41, 5120.25, and 5130.10). Under the current regulations, these forms are used both for filing original applications and for filing amendments. Proprietors who apply to terminate their bonds using this process will complete the same new sections of the forms that applicants use to select whether they are eligible for the exemption when they originally seek TTB approval to operate. TTB is also amending the existing bond termination



regulation at 27 CFR 19.170, and adding new regulations at 24.160 and 25.106, to provide that proprietors may apply to terminate their bonds when they become exempt under these circumstances.

#### F. New Bonds for Previously Exempt Proprietors

TTB is also amending the regulations to provide new procedures for certain proprietors to furnish bonds if they were previously bond-exempt but later become required to furnish a bond. New §§ 19.136, 24.132, and 25.79 (which were first discussed in the previous section) provide that existing proprietors must file amendments to their TTB approvals to operate using the aforementioned application forms if they become required to furnish a bond after having been exempt from such requirements. These procedures apply to proprietors of DSPs, bonded wine cellars (including bonded wineries), and breweries, all of whom must provide a bond to operate unless they are exempt under section 5551(d)(1).

If any such proprietor is required to furnish a bond because the proprietor becomes liable for more than \$50,000 in taxes with respect to distilled spirits, wines, and beer in a calendar year, the proprietor must obtain a bond to continue operating. Under the IRC, the proprietor must furnish the bond following the first date on which the aggregate amount of excise tax due during the calendar year exceeds \$50,000, which is the date identified in section 5061(d)(4)(B) on which the proprietor must begin using semimonthly return periods to defer payment of tax. As discussed above, the bond exemption is linked to this requirement to use semimonthly periods for deferred payment of tax.

In these circumstances, TTB believes it is appropriate to provide a grace period for “operations” bonds during which the previously bond-exempt proprietor may continue to operate until TTB takes action on the bond application. Under amended 27 CFR 19.168, 24.154, and 25.95, such proprietors will be treated as having furnished the required bond to operate if the proprietor submits the bond application to TTB no later than 30 days following the first date on which the aggregate amount of excise tax due from the proprietor during the relevant calendar year exceeds \$50,000. If the proprietor submits the application for the bond no later than 30 days following the first date on which the aggregate amount of excise tax due from the proprietor during the relevant calendar year exceeds \$50,000, the proprietor will be treated as having furnished the required bond until TTB approves or disapproves it.

The grace period authorized in these regulations does not apply to “withdrawal” bonds required under 27 CFR parts 19, 24, and 25 that cover removals of distilled spirits, wines, or beer for deferred payment of tax. If a proprietor becomes required to furnish a bond covering such removals after having been exempt from such requirements, the proprietor may remove products on prepayment (rather than on deferred payment) of tax during the time TTB considers the bond application (see §§ 19.229(b), 24.275, and 25.175). Because bonds covering tax-deferred removals are not required for such proprietors to continue operations while TTB considers the bond application, TTB believes that it is not necessary to provide a grace period under these circumstances.

In the case of a proprietor of a bonded wine cellar using the grace period under § 24.154, the proprietor may remove wine on which the tax has been determined, but not paid, to the extent that the proprietor's liability for tax on those removals does not exceed \$1,000. As discussed above, TTB has historically authorized proprietors to allocate up to \$1,000 of the penal sum of the proprietor's wine bond to cover taxes on wine removed but not yet paid. Since the regulations have not previously required such proprietors to pay taxes associated with these removals using one of the deferred payment periods specified in section 5061(d), TTB believes it is appropriate to extend the grace period provision to such removals if the proprietor's liability for payment does not exceed \$1,000.

Finally, TTB is not amending the regulations to provide grace periods for bonds required under 27 CFR parts 26 and 28 that cover, respectively, tax-deferred shipments from Puerto Rico and non-taxpaid exportations from the United States. In the case of shipments from Puerto Rico, the proprietor may ship the distilled spirits, wines, or beer to the United States upon prepayment of the tax during the time TTB considers the bond application (see 27 CFR 26.81, 26.96, and 26.105). In the case of bonds required under part 28, the exporter's transactions will be limited to taxpaid products while TTB considers the bond application. Because these bonds are not required for such proprietors to continue operations while TTB considers the bond application, TTB believes that it is not necessary to provide a grace period under these circumstances.

## **VIII. Miscellaneous and Technical Amendments**

### **A. Amendments to 27 CFR Parts 18 and 30**

This temporary rule amends several provisions in 27 CFR part 18 (“Production of Volatile Fruit-Flavor Concentrate”) and 27 CFR part 30 (“Gauging Manual”) to reflect the other regulatory amendments discussed above. TTB is amending 27 CFR 18.39(c) and 18.40(c) to provide that proprietors of DSPs and bonded wine cellars are not required to file bonds covering alternation of their premises for use as volatile fruit-flavor concentrate plants if the proprietors are not required to hold bonds under 27 CFR parts 19 and 24. Since 27 CFR part 18 does not impose bond requirements, no bond is required for the alternation if the proprietor is exempt under 27 CFR parts 19 and 24.

In 27 CFR part 30, which governs the gauging of distilled spirits at DSPs, TTB is adding a definition of “bonded premises” in 27 CFR 30.11. Consistent with the amended definition of this term in § 19.1 as discussed above, the new definition provides that the term includes the premises of a DSP even if the proprietor has not provided a bond as authorized under the exemption set forth in § 19.151(d). Related to this amendment, TTB is also modifying the phrase “withdrawn from bond” in 27 CFR 30.36 so that it instead reads “from bonded premises” in order to clarify that the regulation applies to distilled spirits withdrawn from the bonded premises of DSPs, including such premises of DSPs that are not required to provide a bond under § 19.151(d).

## B. Technical Amendments Relating to Surety and Collateral Bonds

TTB is amending regulations in 27 CFR parts 19, 24, 25, 26, and 28 to update information relating to surety and collateral bonds. First, TTB is amending 27 CFR 19.153, 19.168, 24.149, 25.98, 26.62, and 28.52 to update information on how to obtain copies of Treasury Department Circular 570, which contains a list of approved corporate sureties. TTB is also amending these regulations to update website address references for obtaining copies of this circular. Second, TTB is amending 27 CFR 19.154, 19.699, 24.4, 24.151, 25.4, and 26.63 to update information about obtaining collateral bonds guaranteed by acceptable securities. These amendments update the title of the agency currently responsible for publishing this information (the Treasury Department's Bureau of the Fiscal Service (BFS)), the website address references for certain BFS websites, and the title and citation for 31 CFR part 225 (which contains regulations governing such securities).

## C. Updates to Form Numbers in 27 CFR Parts 26 and 28

Certain regulations in 27 CFR parts 26 and 28 pertaining to tax payments and bonds impacted by this rulemaking contain references to outdated form numbers. TTB is amending these regulations so that they include the updated form numbers. The amended regulations are 27 CFR 24.152, 25.77, 25.92, 26.64, 26.67, 26.68, 26.68a, 26.75, 26.76, 28.54, 28.61, 28.62, 28.63, 28.64, 28.70, 28.71, 28.72, 28.73, 28.214, 28.215, 28.250, 28.303, 28.317, and 28.333. The updated form numbers are TTB Forms 5000.23 PR, 5100.12, 5000.18,

5100.21, 5100.25, 5100.30, 5110.67, 5120.20, 5120.24, 5120.25, 5120.32, 5130.6, 5130.16, 5170.7, and 5620.8.

D. Obsolete Regulations in 27 CFR Part 28 Relating to TTB Form 5110.68

Current 27 CFR 28.65 requires a drawback claimant to file a bond on TTB Form 5110.68 where the claimant desires drawback of tax paid on exported distilled spirits or wines prior to TTB's receipt of a certified copy of TTB Form 5110.30 or 5120.24. These latter two forms are drawback claim forms that include certifications that the product was exported. The statutory authority for this type of drawback is section 5062(b) of the IRC (26 U.S.C. 5062(b)). Historically, the purpose of the requirement in § 28.65 to file a bond on TTB Form 5110.68 was to protect the revenue associated with the drawback paid to the claimant until the distilled spirits or wines were certified to be exported.

TTB has determined that it is no longer necessary for revenue protection purposes to require bonds on TTB Form 5110.68 to cover drawback paid for exported distilled spirits and wine. TTB currently approves claims submitted on TTB Form 5110.30 or 5120.24 when it receives adequate evidence that the product was exported and that the industry member is otherwise entitled to drawback based on the exportation. Therefore, it is no longer necessary to require bonds on TTB Form 5110.68 to cover drawback paid prior to certification that the product was exported. For this reason, TTB no longer maintains active approval from the Office of Management and Budget under the Paperwork Reduction Act of 1995 to require the filing of bonds on TTB Form 5110.68. Accordingly, TTB is amending the regulations to remove § 28.65. TTB is also

amending the regulations to remove 27 CFR 28.331 and 28.332, which apply solely to drawback claims supported by this type of bond. The regulations continue to include 27 CFR 28.333 governing such claims that are not supported by this type of bond. However, TTB is amending § 28.333 to remove outdated references to TTB Form 5110.68. Finally, TTB is also removing other references to this bond form in 27 CFR 28.71, 28.72, and 28.250.

## **IX. Public Participation**

To submit comments on the temporary regulations contained in this document, which TTB is proposing to make permanent, please refer to the related notice of proposed rulemaking, Notice No. 167, published in the Proposed Rules section of this issue of the **Federal Register**.

## **X. Regulatory Analyses and Notices**

### **A. Regulatory Flexibility Act**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), TTB certifies that this temporary rule will not have a significant economic impact on a substantial number of small entities. The temporary rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The temporary rule implements certain changes made to the Internal Revenue Code of 1986 by the Protecting Americans from Tax Hikes Act of 2015 (see Public Law 114–113, Division Q, section 332). These statutory changes eliminate bond requirements and reduce tax return filing frequency for certain eligible taxpayers. The regulatory amendments provide for taxpayers to use TTB’s existing qualification

procedures to establish that they are exempt from bond requirements, and any increased burden associated with establishing eligibility for the exemption flows directly from the statutory changes that prescribe the criteria for eligibility for the exemption. Pursuant to section 7805(f) of the IRC (26 U.S.C. 7805(f)), TTB will submit the temporary regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the temporary regulations on small businesses.

#### B. Executive Order 12866

Certain TTB regulations issued under the IRC, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

#### C. Paperwork Reduction Act

Regulations addressed in this temporary rule contain current collections of information that have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3507) and assigned control numbers 1513–0005, 1513–0009, 1513–0015, 1513–0031, 1513–0037, 1513–0038, 1513–0048, 1513–0050, 1513–0083, 1513–0123, 1513–0125, and 1513–0135. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.



The temporary rule implements certain changes made to the Internal Revenue Code of 1986 by the Protecting Americans from Tax Hikes Act of 2015 (see Public Law 114–113, Division Q, section 332). These statutory changes eliminate bond requirements and reduce tax return filing frequency for certain eligible taxpayers. As described further below, the temporary rule alters some of these information collections.

The regulations in this temporary rule do not include any alterations to control numbers 1513–0031, 1513–0050, and 1513–0135. These information collections cover TTB Form 5100.12 (Specific Transportation Bond – Distilled Spirits or Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse—Class Six), TTB Form 5100.25 (Continuing Export Bond for Distilled Spirits and Wine), TTB Form 5110.50 (Tax Deferral Bond—Distilled Spirits (Puerto Rico), and TTB Form 5110.67 (Continuing Transportation Bond—Distilled Spirits and Wines Withdrawn for Transportation to Manufacturing Bonded Warehouse—Class Six). The temporary rule amends certain regulations that reference these forms (see 27 CFR 26.66, 26.80, 28.61, 28.63, 28.64, 28.70, 28.71, 28.72, and 28.73). However, TTB is not changing these bond forms as part of this regulatory action, and TTB does not estimate that this temporary rule will alter paperwork burdens associated with these forms.

This temporary rule involves a non-substantive change to control number 1513–0037, which covers TTB Form 5100.11 (Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation). The temporary rule amends regulations that reference this form (see 27 CFR 28.22, 28.70, 28.95, 28.96,

28.116, 28.117, 28.131, 28.132, and 28.250). TTB does not estimate that this temporary rule will alter the paperwork burdens associated with this form, but TTB is making a non-substantive change to the form by modifying some of the text on the form's first page. This change will provide guidance to users of the form about applicable bond requirements. TTB has submitted this change to OMB for review, and OMB has approved this non-substantive change.

The regulations in this temporary include substantive changes to control numbers 1513–0005, 1513–0009, 1513–0015, 1513–0038, 1513–0048, 1513–0083, 1513–0123, and 1513-0125. These changes are discussed further below. TTB has provided estimates to OMB regarding the burdens associated with the collections under this temporary rule, and OMB has reviewed and approved these estimates. Comments on the revisions should be sent to OMB at Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503 or by email to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov). A copy should also be sent to TTB by any of the methods previously described. Comments on the information collections should be submitted no later than [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments are specifically requested concerning:

- Whether the collections of information submitted to OMB are necessary for the proper performance of the functions of the Alcohol and Tobacco Tax and Trade Bureau, including whether the information will have practical utility;

- The accuracy of the estimated burdens associated with the collections of information submitted to OMB;
- How to enhance the quality, utility, and clarity of the information to be collected;
- How to minimize the burden of complying with the proposed revisions of the collections of information, including the application of automated collection techniques or other forms of information technology; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

1513–0005

The regulations in the temporary rule contain alterations to the information collection currently approved under OMB control number 1513–0005 (see 27 CFR 19.143, 25.62, 25.73, 25.77, 25.79, 25.81, 25.91, 25.95, and 25.106). This control number covers TTB Form 5130.10 (Brewer's Notice). The temporary rule includes regulations requiring that brewers who wish to apply for the bond exemption must file this form. In the case of existing brewers who wish to apply for the exemption beginning in 2017, these changes will result in a one-time increase in the filing of the form. These regulations are necessary for revenue protection purposes to ensure that bond-exempt brewers meet the legal criteria for the exemption. This information collection also covers other submissions by brewers unrelated to this rulemaking. Taking into account the regulatory amendments and other existing regulatory requirements, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 6,298.
- Estimated annual frequency of responses: 6.
- Estimated average annual total burden hours: 32,091.

1513–0009

The regulations in the temporary rule contain alterations to the information collection currently approved under OMB control number 1513–0009 (see 27 CFR 18.40, 19.143, 24.105, 24.109, 24.135, 24.146, 24.154, 25.81, 28.70, and 28.73). This control number covers TTB Form 5120.25 (Application to Establish and Operate Wine Premises) and TTB Form 5120.36 (Wine Bond). The temporary rule includes regulations requiring that bonded wine cellars who wish to apply for the bond exemption must file this form to show they are eligible for the exemption. In the case of existing proprietors who wish to apply for the exemption beginning in 2017, these changes will result in a one-time increase in the filing of the form. These regulations are necessary for revenue protection purposes to ensure that bond-exempt proprietors meet the legal criteria for the exemption. TTB also estimates that submissions of TTB Form 5120.36 will decrease as a result of the new bond exemption, since proprietors who are exempt will no longer be required to file the form. Taking into account the regulatory amendments and other existing regulatory requirements, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 4,495.
- Estimated annual frequency of responses: 1.
- Estimated average annual total burden hours: 3,345.

1513–0015

The regulations in the temporary rule contain alterations to the information collection currently approved under OMB control number 1513–0015 (see 27 CFR 25.73, 25.77, 25.91, 25.95, 25.274, 28.60, and 28.141). This control number covers TTB Form 5130.22 (Brewer's Bond), TTB Form 5130.23 (Brewer's Bond Continuation Certificate), TTB Form 5130.25 (Brewer's Collateral Bond), and TTB Form 5130.27 (Brewer's Collateral Bond Continuation Certificate). TTB estimates that submissions of these forms will decrease as a result of the new bond exemption, since brewers who are exempt will no longer be required to file the forms. Taking into account the regulatory amendments and other existing regulatory requirements, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 1,657.
- Estimated annual frequency of responses: 652.
- Estimated average annual total burden hours: 363.5.

1513–0038

The regulations in the temporary rule contain alterations to the information collection currently approved under OMB control number 1513–0038 (see 27 CFR 19.403). This control number covers TTB Form 5100.16 (Application to Receive Spirits and/or Denatured Spirits by Transfer in Bond). TTB does not estimate that this temporary rule will alter the paperwork burdens associated with this form, but TTB is amending the section of the form where the DSP proprietor describes the proprietor's bond coverage. These form amendments are

necessary to reflect changes relating to the bond exemption for DSPs. TTB is also making a minor related change to one of the instructions on the form.

Taking into account the regulatory amendments and other existing regulatory requirements, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 250.
- Estimated annual frequency of responses: 6.
- Estimated average annual total burden hours: 228.

#### 1513–0048

The regulations in the temporary rule contain alterations to the information collection currently approved under OMB control number 1513–0048 (see 27 CFR 18.39, 19.73, 19.116, 19.118, 19.136, 19.143, 19.168, and 19.170). This control number covers TTB Form 5110.41 (Registration of Distilled Spirits Plant). The temporary rule includes regulations requiring that DSP proprietors who wish to apply for the bond exemption must file this form to show they are eligible for the exemption. In the case of existing proprietors who wish to apply for the exemption beginning in 2017, these changes will result in a one-time increase in the filing of the form. These regulations are necessary for revenue protection purposes to ensure that bond-exempt proprietors meet the legal criteria for the exemption. Taking into account the regulatory amendments and other existing regulatory requirements, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 1,515.

- Estimated annual frequency of responses: 1.84.
- Estimated average annual total burden hours: 5,932.

1513–0083

The regulations in the temporary rule contain alterations to the information collection currently approved under OMB control number 1513–0083. This control number covers TTB Form 5000.24 (Excise Tax Return). TTB estimates that the paperwork burden associated with this collection will decrease under the temporary rule due to the establishment of a new annual tax return period for deferred payment of taxes on distilled spirits, wines, and beer. The burden reduction will result from eligible taxpayers paying taxes annually rather than quarterly or semimonthly. TTB also expects that additional taxpayers who are eligible to use quarterly or annual return periods will begin using those periods in lieu of semimonthly or quarterly return periods, respectively, which will also result in a reduction in paperwork burden. Once these taxpayers establish their eligibility for the bond exemption, such taxpayers paying taxes less frequently will not have the disincentive of being required to hold withdrawal bonds of higher penal sums to cover tax liability associated with withdrawals of tax-determined product on which taxes have not yet been paid. This information collection also covers other submissions of TTB Form 5000.24 that are unrelated to this rulemaking. Taking into account the regulatory amendments and other existing regulatory requirements, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 18,479.

- Estimated annual frequency of responses: 6.2.
- Estimated average annual total burden hours: 85,888.

#### 1513–0123

The regulations in this temporary rule contain alterations to the information collection currently approved under OMB control number 1513–0123 (see 27 CFR 26.80, 26.95, and 26.104). This control number covers TTB Form 5100.21 (Application, Permit, and Report – Wine and Beer (Puerto Rico)) and TTB Form 5110.51 (Application, Permit, and Report – Distilled Spirits Products (Puerto Rico)). TTB does not estimate that this temporary rule will alter the paperwork burdens associated with these forms, but TTB is amending several sections of the forms to reflect changes relating to the new bond exemption. Taking into account the regulatory amendments and other existing regulatory requirements, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 35.
- Estimated annual frequency of responses: 1.
- Estimated average annual total burden hours: 35.

#### 1513–0125

The regulations in the temporary rule contain alterations to the information collection currently approved under OMB control number 1513–0125. This control number covers TTB Form 5110.56 (Distilled Spirits Bond). TTB estimates that submissions of this form will decrease as a result of the new bond exemption, since DSP proprietors who are exempt will no longer be required to file the form. Taking into account the regulatory amendments and other existing



regulatory requirements, TTB estimates the burden associated with this information collection as follows:

- Estimated number of respondents: 358.
- Estimated annual frequency of responses: 2.
- Estimated average annual total burden hours: 716.

D. Inapplicability of Prior Notice and Comment and Delayed Effective Date Procedures

TTB is issuing this temporary final rule without prior notice and comment pursuant to authority under 5 U.S.C. 553(b). This provision authorizes an agency to issue a rule without prior notice and comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Because this document implements provisions of a law that are effective on January 1, 2017, and because immediate guidance is necessary to implement these statutory provisions, it is found to be impracticable to issue this temporary rule with prior notice and comment. The temporary rule implements statutory changes that eliminate bond requirements and reduce tax return filing frequency for certain eligible taxpayers. These statutory changes reduce regulatory burdens on affected industry members, and the regulations in this temporary rule will allow such industry members to benefit from such changes.

Pursuant to the provisions of 5 U.S.C. 553(d)(1) and (d)(3), TTB is issuing this temporary rule without a delayed effective date. As provided for in section 553(d)(1), the regulatory amendments recognize a statutory exemption from bond requirements and authorize a new voluntary annual tax return period. TTB

has also determined that good cause exists under section 553(d)(3) to provide industry members with immediate guidance on procedures to apply for and obtain the bond exemption authorized under provisions of a law that are effective on January 1, 2017.

## **XI. Drafting Information**

Ben Birkhill of the Regulations and Rulings Division drafted this document with the assistance of other Alcohol and Tobacco Tax and Trade Bureau personnel.

### **List of Subjects**

#### **27 CFR Part 18**

Alcohol and alcoholic beverages, Fruits, Reporting and recordkeeping requirements, Spices and flavorings.

#### **27 CFR Part 19**

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Caribbean Basin initiative, Chemicals, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Stills, Surety bonds, Transportation, Vinegar, Virgin Islands, Warehouses, Wine.

#### **27 CFR Part 24**

Administrative practice and procedure, Claims, Electronic funds transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging

and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Vinegar, Warehouses, Wine.

27 CFR Part 25

Beer, Claims, Electronic funds transfers, Excise taxes, Exports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Research, Surety bonds.

27 CFR Part 26

Alcohol and alcoholic beverages, Caribbean Basin initiative, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Virgin Islands, Warehouses.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

27 CFR Part 28

Aircraft, Alcohol and alcoholic beverages, Armed forces, Beer, Claims, Excise taxes, Exports, Foreign trade zones, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Vessels, Warehouses, Wine.

27 CFR Part 30

Liquors, Scientific equipment.

## **Amendments to the Regulations**

For the reasons discussed in the preamble, TTB amends 27 CFR chapter I as follows:

### **PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATE**

1. The authority citation for part 18 is revised to read as follows:

**Authority:** 26 U.S.C. 5001, 5171–5173, 5178, 5179, 5203, 5351, 5354, 5356, 5511, 5552, 6065, 6109, 7805.

#### **§ 18.39 [Amended]**

2. Section 18.39 is amended as follows:

- a. In paragraph (c), by adding the words “if the proprietor is required to hold a bond under § 19.151 of this chapter to cover the distilled spirits plant premises subject to alternation” before the period; and

- b. By revising the Office of Management and Budget control number reference to read “(Approved by the Office of Management and Budget under control number 1513–0006)”.

#### **§ 18.40 [Amended]**

3. Section 18.40 is amended as follows:

- a. In paragraph (c), by adding the words “if the proprietor is required to hold a bond under § 24.146 of this chapter to cover the bonded wine cellar premises subject to alternation” after the words “alternation of premises”; and

- b. By revising the Office of Management and Budget control number reference to read “(Approved by the Office of Management and Budget under control number 1513–0006)”.

## **PART 19—DISTILLED SPIRITS PLANTS**

4. The authority citation for part 19 continues to read as follows:

**Authority:** 19 U.S.C. 81c, 1311; 26 U.S.C. 5001, 5002, 5004–5006, 5008, 5010, 5041, 5061, 5062, 5066, 5081, 5101, 5111–5114, 5121–5124, 5142, 5143, 5146, 5148, 5171–5173, 5175, 5176, 5178–5181, 5201–5204, 5206, 5207, 5211–5215, 5221–5223, 5231, 5232, 5235, 5236, 5241–5243, 5271, 5273, 5301, 5311–5313, 5362, 5370, 5373, 5501–5505, 5551–5555, 5559, 5561, 5562, 5601, 5612, 5682, 6001, 6065, 6109, 6302, 6311, 6676, 6806, 7011, 7510, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

5. Section 19.1 is amended as follows:

- a. In the definition of “Bonded premises”, by adding a second sentence;
- b. By adding, in alphabetical order, a definition of “From bond”;
- c. In the definition of “In bond”, by adding a second sentence;
- d. By adding, in alphabetical order, a definition of “To bond”; and
- e. By removing the definition of “TTB bond”.

The additions read as follows:

### **§ 19.1 Definitions.**

\* \* \* \*

Bonded premises. \* \* \* This term includes premises described in the preceding sentence even if the proprietor, as authorized under the exemption set forth in § 19.151(d), has not provided a bond for the premises.

\* \* \* \*

From bond. When used with reference to withdrawals of distilled spirits, this phrase includes withdrawals from the premises of a distilled spirits plant even

if the proprietor, as authorized under the exemption set forth in § 19.151(d), has not provided a bond for the premises.

\* \* \* \*

In bond. \* \* \* Spirits, denatured spirits, articles, or wine are considered to be held under bond if they are held by a proprietor who is liable for the tax, even if the proprietor is not required to provide a bond under this chapter.

\* \* \*

\* \* \* \*

To bond. When used with reference to returns of distilled spirits, this phrase includes returns to the premises of a distilled spirits plant even if the proprietor, as authorized under the exemption set forth in §19.151(d), has not provided a bond for the premises.

\* \* \* \*

**6.** Section 19.73 is amended as follows:

**a.** In paragraph (a)(14)(ii), by removing the word “and”;

**b.** In paragraph (a)(15)(ii), by removing the period at the end of the text and adding in its place the word “; and”; and

**c.** By adding paragraph (a)(16).

The addition reads as follows:

**§ 19.73 Information required in application for registration.**

(a) \* \* \*

(16) A statement whether the applicant is required to furnish a bond under § 19.151.

\* \* \* \* \*

**§ 19.116 [Amended]**

7. In § 19.116, paragraph (a)(2)(ii) is amended by adding the words “, subject to the exemption provided in § 19.151(d)” before the semicolon.

**§ 19.118 [Amended]**

8. In § 19.118, paragraph (a)(2) is amended by adding the words “, subject to the exemption provided in § 19.151(d)” after the words “TTB F 5000.18”.

**§ 19.132 [Amended]**

9. In § 19.132, paragraph (a)(2)(ii) is amended by adding the words “, subject to the exemption provided in § 19.151(d)” after the words “the required bonds”.

**§ 19.134 [Amended]**

10. In § 19.134, paragraph (b) is amended by adding the words “, subject to the exemption provided in § 19.151(d)” after the words “TTB F 5000.18”.

11. Section 19.136 is added immediately after § 19.135 and before the undesignated center heading to read as follows:

**§ 19.136 Change in bond status.**

A proprietor must file TTB F 5110.41, Registration of Distilled Spirits Plant, to amend the registration relating to the proprietor’s bond status if either of the following occurs:

(a) A proprietor who has not furnished any bond becomes required to furnish a bond as provided under § 19.168(b); or

(b) A proprietor who has furnished a bond becomes exempt from bond requirements under § 19.151(d) and chooses to terminate all bond coverage as provided under § 19.170(e).

**§ 19.141 [Amended]**

**12.** Section 19.141 is amended as follows:

**a.** In paragraph (d)(2), by removing the word “Execute” and adding, in its place, the words “Except where no bond is required under § 19.151(d), execute”; and

**b.** In paragraph (e)(2), by removing the words “Must execute” and adding, in their place, the words “Except where no bond is required under § 19.151(d), must execute”.

**§ 19.142 [Amended]**

**13.** In § 19.142, paragraph (e) is amended by removing the words “TTB bond” and adding, in their place, the words “bonded premises”.

**14.** In § 19.143, paragraph (b)(3) is amended by adding a second sentence to read as follows:

**§ 19.143 Alternation for other purposes.**

\* \* \* \*

(b) \* \* \*

(3) \* \* \* This requirement does not apply if no bond is required under this chapter to cover the proposed alternation.

\* \* \* \*

**15.** Section 19.151 is amended as follows:



a. In the first sentence of paragraph (a), by removing the words “Any person” and adding, in their place, “Except as provided in paragraph (d) of this section, any person”; and

b. By adding paragraph (d).

The addition reads as follows:

**§ 19.151 General.**

\* \* \* \* \*

(d) Bonds covering distilled spirits for nonindustrial use and industrial use—(1) Nonindustrial use. A proprietor who pays tax on a deferred basis under § 19.235 is not required to provide a bond or bonds to cover operations and withdrawals of distilled spirits for nonindustrial use during any portion of a calendar year for which the proprietor is eligible to use an annual or quarterly return period under § 19.235(b) or (c). For purposes of the preceding sentence, a proprietor is considered to be paying tax on a deferred basis even if the proprietor does not pay tax during every return period as long as the proprietor intends to pay tax in a future period. See §§ 19.73 and 19.136 for rules governing applying for this bond exemption. See § 19.168(b) for rules governing when an existing proprietor who has not provided a bond under this paragraph must obtain bond coverage.

(2) Industrial use. A proprietor is required to provide one or more bonds to cover operations and withdrawals of distilled spirits for industrial use even if the proprietor pays tax on a deferred basis under § 19.235 and is eligible to use an annual or quarterly return period under § 19.235(b) or (c). In the case of a

proprietor whose operations involve distilled spirits for both nonindustrial and industrial use, distilled spirits are considered to be for industrial use for purposes of this paragraph unless the proprietor designates the spirits as being solely for nonindustrial use either upon taking the production gauge (see § 19.304) or upon receiving the spirits and, in either case, does not thereafter mix the spirits with any spirits for industrial use.

(3) Nonindustrial use and industrial use defined. See § 19.472 for the provisions defining the nonindustrial and industrial uses of distilled spirits.

16. In § 19.153, paragraph (b) is revised to read as follows:

**§ 19.153 Bonds guaranteed by a corporate surety.**

\* \* \* \* \*

(b) How to find an approved surety. The Department of the Treasury publishes a list of approved corporate surety companies in Treasury Department Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies. Treasury Department Circular 570 is published in the Federal Register annually on the first business day in July, and supplemental changes are published periodically thereafter. The most recent circular and any supplemental changes to it may be viewed on the Bureau of the Fiscal Service Web site at <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.

\* \* \* \* \*

17. Section 19.154 is revised to read as follows:

**§ 19.154 Bond guaranteed by deposit of securities or cash (including cash equivalents).**

(a) Bond guaranteed by deposit of securities—(1) General. As an alternative to the corporate surety bond under § 19.153, a person can file a bond that guarantees payment of the liability by pledging one or more acceptable negotiable securities. These securities must have a par value (face amount) equal to or greater than the penal sums of the required bonds. The pledged securities are held in the Federal Reserve Bank in a safekeeping account with TTB as the pledgee. Should the proprietor fail to pay one or more of the guaranteed liabilities, TTB can take action to sell the deposited securities to satisfy the debt. Pledged securities will be released if there are no outstanding liabilities when the bond is terminated. (See § 19.170.)

(2) Acceptable securities. Only public debt obligations of the United States, the principal and interest of which are unconditionally guaranteed by the United States Government, are acceptable for the purpose described in paragraph (a)(1) of this section. The Department of the Treasury and certain other United States Government agencies issue debt instruments that are acceptable as collateral, such as Treasury notes and Treasury bills. Savings bonds, certificates of deposit and letters of credit are not acceptable. A list of securities acceptable as collateral in lieu of surety bonds is available from the Bureau of the Fiscal Service. Current information and guidance from the Bureau of the Fiscal Service Web site may be found at <https://www.fiscal.treasury.gov>.

(b) Bond guaranteed by deposit of cash or cash equivalent. As an alternative to the corporate surety bond under § 19.153, a person can file a bond that guarantees payment of the liability by submitting cash or its equivalent

(including a money order, cashier's check, or personal check). Cash or its equivalent must be no less than the penal sums of the required bond. Cash equivalents must be payable to the Alcohol and Tobacco Tax and Trade Bureau. A bond described in this paragraph will be released if there are no outstanding liabilities when the bond is terminated. (See § 19.170.)

(31 U.S.C. 9301, 9303; 31 CFR part 380)

**§ 19.161 [Amended]**

**18.** In § 19.161, paragraph (a) is amended by removing the words "Any person" and adding, in their place, "Except as provided in § 19.151(d), any person".

**19.** In § 19.164, the first sentence of paragraph (a) is revised to read as follows:

**§ 19.164 Withdrawal bond.**

(a) \* \* \* Except as provided in § 19.151(d), a person must provide TTB with a withdrawal bond for a distilled spirits plant if the person intends to withdraw spirits from the distilled spirits plant upon determination of the taxes due on the spirits but before payment of the tax. \* \* \*

\* \* \* \* \*

**20.** Section 19.168 is amended as follows:

**a.** By revising the section heading;

**b.** By revising paragraph (a);

**c.** By redesignating paragraphs (b), (c), and (d) as paragraphs (a)(1), (a)(2), and (a)(3);

d. In the first sentence of redesignated paragraph (a)(1), by removing the words “Circular 570” and adding, in their place, the words “Department Circular 570 (see § 19.153)”; and

e. By adding a new paragraph (b).

The revisions and addition read as follows:

**§ 19.168 Superseding bonds and new bonds for existing proprietors.**

(a) Superseding bonds. A new bond that replaces another bond is called a superseding bond. The proprietor must replace an existing bond with a superseding bond in any of the following circumstances:

\* \* \* \* \*

(b) New bonds for existing proprietors—(1) General. Subject to paragraph (b)(2) of this section, if an existing proprietor has not furnished a bond or bonds covering operations and withdrawals of distilled spirits for nonindustrial use because the proprietor was exempt from bond requirements under § 19.151(d), the proprietor must furnish a bond or bonds as provided in this subpart beginning in any portion of a calendar year following the first date on which the aggregate amount of tax due from the proprietor during the calendar year exceeds \$50,000. When furnishing the bond or bonds, the proprietor must also file an amendment to TTB F 5110.41, Registration of Distilled Spirits Plant, as provided in § 19.136 to change the proprietor’s bond status.

(2) Grace period for bonds covering operations. An existing proprietor who must furnish an operations bond as provided in paragraph (b)(1) of this section will be treated as having furnished the required bond if the proprietor

submits the bond on TTB F 5110.56 no later than 30 days following the first date on which the aggregate amount of tax due from the proprietor during the relevant calendar year exceeds \$50,000. The proprietor will be treated as having furnished the required operations bond for purposes of this paragraph until TTB approves or disapproves the bond.

(3) Bonds covering withdrawals. Paragraph (b)(2) of this section does not apply to withdrawal bonds. If an existing proprietor must furnish a withdrawal bond as provided in paragraph (b)(1) of this section, the proprietor may not withdraw distilled spirits from the bonded premises on a tax deferred basis until TTB approves the withdrawal bond.

\* \* \* \* \*

**21.** In § 19.169, the section heading and paragraphs (a) and (b) are revised to read as follows:

**§ 19.169 Effect of failure to furnish a superseding bond or a new bond.**

(a) Operations bond. Except as provided in § 19.151(d), a person may not operate a distilled spirits plant without an operations bond. A person who does not submit an acceptable superseding operations bond when required to do so under § 19.168(a) must immediately discontinue the activities to which the lapsed bond coverage relates upon lapse of the existing bond coverage. If a proprietor must furnish an operations bond under § 19.168(b)(1) and does not submit an operations bond within the time prescribed in § 19.168(b)(2), the proprietor must immediately discontinue the activities required to be covered by the operations bond.

(b) Withdrawal bond. Except as provided in § 19.151(d), a person may not defer payment of taxes on spirits withdrawn from a distilled spirits plant upon determination of tax without a withdrawal bond. If a person is required to submit a new or superseding withdrawal bond under § 19.168, the person must submit the bond in accordance with that section. A person who does not submit and receive approval of an acceptable withdrawal bond when required to do so under § 19.168 may not withdraw distilled spirits from the bonded premises on a deferred basis. Upon lapse of the existing bond coverage, or upon the date a new bond is required under § 19.168(b), the person must pay the tax at the time of withdrawal, except in the case of distilled spirits withdrawn free of tax or withdrawn without payment of tax under 26 U.S.C. 5214 or withdrawn exempt from tax under 26 U.S.C. 7510.

\* \* \* \* \*

**22.** Section 19.170 is amended as follows:

- a.** In paragraph (c), by removing the word “or” at the end of the text;
- b.** In paragraph (d), by removing the period at the end of the text and adding in its place the word “; and”; and
- c.** By adding paragraph (e).

The addition reads as follows:

**§ 19.170 Termination of bonds.**

\* \* \* \* \*

(e) On application by an existing proprietor who becomes exempt from bond requirements. If a proprietor has held a bond or bonds covering operations or withdrawals of distilled spirits for nonindustrial use and becomes exempt from those bond requirements as provided under § 19.151(d), the proprietor may apply to TTB to terminate the bond or bonds covering such operations or withdrawals. To apply, the proprietor must file an amendment to TTB F 5110.41, Registration of Distilled Spirits Plant, as provided in § 19.136. The proprietor must accurately state in the submission that the proprietor:

(1) Will withdraw distilled spirits for deferred payment of tax as provided in § 19.235;

(2) Reasonably expects to be liable for not more than \$50,000 in taxes with respect to distilled spirits imposed by 26 U.S.C. 5001 and 7652 for the current calendar year (see definition of “Reasonably expects” in § 19.235(e)); and

(3) Was liable for not more than \$50,000 in such taxes in the preceding calendar year.

\* \* \* \* \*

#### **§ 19.229 [Amended]**

**23.** In § 19.229, the third sentence of paragraph (a) is amended by adding after the words “unit bond” the words “unless the proprietor is exempt from furnishing such bond under § 19.151(d)”.

#### **§ 19.230 [Amended]**

**24.** Section 19.230 is amended as follows:



a. Paragraph (a) is amended by adding after the words “unit bond” the words “and the proprietor is not exempt from furnishing such bond under §19.151(d)”; and

b. In paragraph (d), a new second sentence is added.

The addition reads as follows:

**§ 19.230 Conditions requiring prepayment of taxes.**

\* \* \* \* \*

(d) \* \* \* This condition does not apply to a proprietor who is exempt from furnishing a bond under § 19.151(d). \* \* \*

\* \* \* \* \*

**§ 19.231 [Amended]**

25. In § 19.231, the first sentence is amended by removing the words “When a proprietor furnishes” and adding, in their place, the words “In cases where a proprietor must furnish”.

26. Section 19.235 is revised to read as follows:

**§ 19.235 Deferred payment return periods—annual, quarterly, and semimonthly.**

(a) Three types of return periods. The IRC provides for three different return periods for those taxpayers who pay their taxes on a deferred basis: Annual, quarterly, and semimonthly. Taxpayers who meet certain criteria are eligible to use annual or quarterly return periods and pay their taxes on an annual or quarterly basis as provided in paragraphs (b) and (c) of this section,

respectively. Other taxpayers must use semimonthly return periods and pay their taxes on a semimonthly basis as provided in paragraph (e) of this section.

(b) Annual return period. Subject to paragraph (d) of this section, a taxpayer who reasonably expects to be liable for not more than \$1,000 in taxes with respect to distilled spirits imposed by 26 U.S.C. 5001 and 7652 for the current calendar year, and that was liable for not more than \$1,000 in such taxes in the preceding calendar year, may choose to use an annual return period. However, the taxpayer may not use the annual return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$1,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of the quarterly or semimonthly period in which that date occurs. A taxpayer may choose to use either quarterly or semimonthly return periods as authorized under paragraph (c) or (e) of this section.

(c) Quarterly return period. Except as provided in paragraph (b) of this section and subject to paragraph (d) of this section, a taxpayer who reasonably expects to be liable for not more than \$50,000 in taxes with respect to distilled spirits imposed by 26 U.S.C. 5001 and 7652 for the current calendar year, and that was liable for not more than \$50,000 in such taxes in the preceding calendar year, may choose to use a quarterly return period. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$50,000, and any tax which has not

been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(d) Additional rules for annual and quarterly return periods. The following additional rules apply to the annual and quarterly return period procedures under paragraphs (b) and (c) of this section:

(1) A taxpayer with multiple locations must combine the distilled spirits tax liability for all locations to determine eligibility for the return procedures;

(2) A taxpayer who has both domestic operations and import transactions must combine the distilled spirits tax liability on the domestic operations and the imports to determine eligibility for the return procedures;

(3) The controlled group rules of 26 U.S.C. 5061(e), which concern treatment of controlled groups as one taxpayer, do not apply for purposes of determining eligibility for the return procedures. However, a taxpayer who is eligible for the return procedures, and that is a member of a controlled group that owes \$5 million or more in distilled spirits excise taxes per year, is required to pay taxes by electronic fund transfer (EFT). Quarterly payments via EFT must be transmitted in accordance with section 5061(e);

(4) A new taxpayer is eligible to use the return procedures the first year of business simply if the taxpayer reasonably expects to be liable for not more than \$1,000, in the case of the annual return procedure, or \$50,000, in the case of the quarterly return procedure, in distilled spirits taxes during that calendar year; and

(5) If a taxpayer becomes ineligible to use a return procedure described in paragraph (b) or (c) of this section because the taxpayer's liability exceeds

\$1,000 or \$50,000, respectively, during a taxable year, that taxpayer may resume using that return procedure only after a full calendar year has passed during which the taxpayer's liability did not exceed \$1,000 or \$50,000 as the case may be. A taxpayer may not use an annual or quarterly return procedure during any calendar year in which the taxpayer reasonably expects to be liable for more than \$1,000, in the case of the annual return procedure, or \$50,000, in the case of the quarterly return procedure, in distilled spirits taxes.

(e) Semimonthly return period. Except in the case of a taxpayer who qualifies for, and chooses to use, annual or quarterly return periods as provided in paragraphs (b) or (c) of this section, all other taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods will run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in § 19.237.

(f) Definitions. For purposes of this section, the following terms have the meanings indicated:

Reasonably expects. When used with reference to a taxpayer, reasonably expects means that there is no existing or anticipated circumstances known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's tax liability to exceed the prescribed limit.

Taxpayer. A taxpayer is an individual, corporation, partnership, or other entity that is assigned a single Employer Identification Number (EIN) as defined in 26 CFR 301.7702.12.

(26 U.S.C. 5061)

**27.** Section 19.236 is amended as follows:

**a.** In paragraph (a), by removing the words “a quarterly return as provided in paragraph (b)” and adding, in their place, the words “an annual or quarterly return as provided in paragraph (b) or (c)”;

**b.** In paragraph (b), by removing the citation “§ 19.235(b)” and adding, in its place, the citation “§ 19.235(c)”; and

**c.** By adding paragraph (c).

The addition reads as follows:

**§ 19.236 Due dates for returns.**

\* \* \* \* \*

(c) Annual returns. Where the proprietor of bonded premises has withdrawn spirits from such premises on determination and before payment of tax, and the proprietor uses annual return periods as provided in § 19.235(b), the proprietor must file an annual return covering such spirits on TTB F 5000.24, and remittance, as required by § 19.238, § 19.239, or § 19.240, not later than the 14th day after the last day of the annual return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance will be due on the immediately preceding day which is not a Saturday, Sunday, or legal holiday.

\* \* \* \* \*

**§ 19.263 [Amended]**

**28.** In § 19.263, paragraph (a)(4) is amended by removing the words “TTB bond” and adding, in their place, the words “bonded premises”.

**§ 19.269 [Amended]**

**29.** In § 19.269, paragraph (a)(1) is amended by removing the word “TTB”.

**§ 19.305 [Amended]**

**30.** In § 19.305, the second sentence is amended by removing the words “bonded storage” and adding, in their place, the words “storage on bonded premises”.

**§ 19.403 [Amended]**

**31.** In § 19.403, the first sentence of paragraph (b) is amended by removing words “TTB will” and adding, in their place, the words “Except to the extent the proprietor is not required to provide a bond under § 19.151(d), TTB will”.

**§ 19.415 [Amended]**

**32.** In § 19.415, the first sentence of paragraph (c) is amended by removing the words “premises bonded under this part” and adding, in their place, the words “bonded premises”.

**33.** Section 19.699 is amended as follows:

**a.** In the second sentence of paragraph (a), by removing the duplicate words “fails to” immediately after the words “fails to”;

**b.** By revising paragraph (b); and

**c.** In paragraph (c), by revising the last two sentences.

The revisions read as follows:

**§ 19.699 General bond requirements.**

\* \* \* \* \*

(b) Corporate surety. A company that issues bonds is called a “corporate surety.” Proprietors must obtain the surety bonds required by this subpart from a corporate surety approved by the Secretary of the Treasury. The Department of the Treasury publishes a list of approved corporate surety companies in Treasury Department Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies. Treasury Department Circular 570 is published in the Federal Register annually on the first business day in July, and supplemental changes are published periodically thereafter. The most recent circular and any supplemental changes to it may be viewed on the Bureau of the Fiscal Service Web site at <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.

(c) \* \* \* A list of securities acceptable as collateral in lieu of surety bonds is available from the Bureau of the Fiscal Service. Current information and guidance from the Bureau of the Fiscal Service Web site may be found at <https://www.fiscal.treasury.gov>.

\* \* \* \* \*

## **PART 24—WINE**

**34.** The authority citation for part 24 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5121, 5122–5124, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

**§ 24.4 [Amended]**

**35.** Section 24.4 is amended by removing the words “31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.” and adding, in their place, the words “31 CFR Part 225—Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties.”.

**36.** Section 24.10 is amended as follows:

- a.** In the definition of “Bonded wine cellar”, by adding a third sentence;
- b.** In the definition of “Bonded wine premises”, by adding a second sentence;
- c.** In the definition of “Bonded wine warehouse”, by adding a second sentence;
- d.** In the definition of “Bonded winery”, by adding a second sentence;
- e.** By adding, in alphabetical order, a definition of “From bond”;
- f.** In the definition of “In bond”, by adding a new second sentence; and
- g.** By adding, in alphabetical order, a definition of “To bond”.

The additions read as follows:

**§ 24.10 Meaning of terms.**

\* \* \* \* \*

Bonded wine cellar. \* \* \* This term includes premises described in the preceding sentence even if the proprietor, as authorized under the exemption set forth in § 24.146(d), has not provided a bond for the premises.



Bonded wine premises. \* \* \* This term includes premises described in the preceding sentence even if the proprietor, as authorized under the exemption set forth in § 24.146(d), has not provided a bond for the premises.

Bonded wine warehouse. \* \* \* This term includes facilities described in the preceding sentence even if the warehouse company or other person, as authorized under the exemption set forth in § 24.146(d), has not provided a bond for the facility.

Bonded winery. \* \* \* This term includes premises described in the preceding sentence even if the proprietor, as authorized under the exemption set forth in § 24.146(d), has not provided a bond for the premises.

\* \* \* \*

From bond. When used with reference to withdrawals of wine, this phrase includes withdrawals from the premises established under the provisions of this part on which operations in untaxpaid wine are authorized to be conducted, even if the proprietor, as authorized under the exemption set forth in § 24.146(d), has not provided a bond for the premises.

\* \* \* \*

In bond. \* \* \* Wine or spirits are considered to be possessed under bond if they are possessed by a proprietor who is liable for the tax, even if the proprietor is not required to provide a bond under this chapter. \* \* \*

\* \* \* \*

To bond. When used with reference to returns of wine, this phrase includes returns to premises established under the provisions of this part on

which operations in untaxpaid wine are authorized to be conducted, even if the proprietor, as authorized under the exemption set forth in § 24.146(d), has not provided a bond for the premises.

\* \* \* \* \*

**§ 24.100 [Amended]**

**37.** In § 24.100, the first sentence is amended by removing the words “file bond” and adding, in their place, the words “file any required bond”.

**§ 24.101 [Amended]**

**38.** In § 24.101, paragraph (a) is amended as follows:

**a.** In the first sentence, by adding the words “any required” before the word “bond”; and

**b.** In the second sentence, by adding after the words “the surety on the bond” the words “(if a bond is required)”.

**§ 24.105 [Amended]**

**39.** In § 24.105, the fifth sentence is amended by adding after the words “In any instance where a bond is required to be given” the words “under § 24.146”.

**40.** Section 24.109 is amended as follows:

**a.** In paragraph (j), by removing the word “and”;

**b.** In paragraph (k), by removing the period at the end of the text and adding in its place the word “; and”; and

**c.** By adding paragraph (l).

The addition reads as follows:

**§ 24.109 Data for application.**

\* \* \* \* \*

(l) A statement whether the applicant is required to furnish a bond under § 24.146.

\* \* \* \* \*

**§ 24.126 [Amended]**

**41.** Section 24.126 is amended by adding after the words “sufficient bond coverage” the words “, except where § 24.146(d) does not require bond coverage”.

**42.** Section 24.132 is added immediately after § 24.131 and before the undesignated center heading to read as follows:

**§ 24.132 Change in bond status.**

A proprietor must file an amended application if the proprietor’s bond status changes in either of the following ways:

(a) A proprietor who has not furnished any bond becomes required to furnish a bond as provided under § 24.154(b); or

(b) A proprietor who has furnished a bond becomes exempt from bond requirements under § 24.146(d) and chooses to terminate all bond coverage as provided under § 24.160.

**§ 24.135 [Amended]**

**43.** In § 24.135, paragraph (b)(2) is amended by adding after the words “covering the alternation” the words “, except in cases where § 24.146(d) does not require a bond or bonds”.

**§ 24.136 [Amended]**

**44.** In § 24.136, paragraph (c) is amended as follows:

**a.** In the first sentence, by adding after the words “filed bond” the words “as required under §24.146”; and

**b.** In the second sentence, by removing the words “the outgoing proprietor” and adding, in their place, the words “an outgoing proprietor who has filed bond as required under § 24.146”.

**45.** Section 24.146 is amended as follows:

**a.** In the first sentence of paragraph (a), by removing the words “The proprietor shall give bond” and adding, in their place, “Except as provided in paragraph (d) of this section, the proprietor must give bond”;

**b.** In paragraph (b), by revising the first sentence; and

**c.** By adding paragraph (d).

The revision and addition read as follows:

**§ 24.146 Bonds.**

\* \* \* \* \*

(b) \* \* \* Except as provided in paragraph (d) of this section, where the proprietor removes wine from bonded wine premises for consumption or sale, after determination and before payment of tax, the proprietor must, in addition to

any other bond required by this part, furnish a tax deferral bond on TTB F 5120.36, Wine Bond, to ensure payment of the tax on the wine. \* \* \*

\* \* \* \* \*

(d) Bonds covering wine for nonindustrial use and industrial use—(1)

Nonindustrial use. A proprietor who pays tax on a deferred basis under § 24.271 is not required to provide a bond or bonds to cover operations and withdrawals of wine for nonindustrial use during any portion of a calendar year for which the proprietor is eligible to use an annual or quarterly return period under § 24.271(b)(1)(ii) or (b)(1)(iii). For purposes of the preceding sentence, a proprietor is considered to be paying tax on a deferred basis even if the proprietor does not pay tax during every return period as long as the proprietor intends to pay tax in a future period. See §§ 24.109 and 24.132 for rules governing applying for this bond exemption. See § 24.154(b) for rules governing when an existing proprietor who has not provided a bond under this paragraph must obtain bond coverage.

(2) Industrial use. A proprietor is required to provide a bond or bonds to cover operations and withdrawals of wine for industrial use even if the proprietor pays tax on a deferred basis under § 24.271 and is eligible to use an annual or quarterly return period under § 24.271(b)(1)(ii) or (b)(1)(iii). In the case of a proprietor whose operations or withdrawals involve wine for both nonindustrial and industrial use, wine is considered to be for industrial use for purposes of this paragraph unless the proprietor designates the wine as solely for nonindustrial

use upon production of the wine by fermentation or upon receiving the wine and, in either case, does not thereafter mix the wine with any wine for industrial use.

(3) Nonindustrial use and industrial use defined. The nonindustrial and industrial uses of wine are defined in subpart D of part 1 of this chapter.

Nonindustrial uses of wine include, but are not limited to, uses of wine for beverage purposes. Industrial uses of wine include the manufacture of wine or wine products not for beverage use as set forth in § 24.215.

\* \* \* \* \*

**46.** In § 24.147, a second sentence is added to read as follows:

**§ 24.147 Operations bond or unit bond.**

\* \* \* See § 19.151(d) of this chapter for circumstances under which a bond is not required with respect to operations and withdrawals of distilled spirits.

\* \* \* \* \*

**47.** Section 24.149 is amended as follows:

**a.** In paragraph (a), by removing the words “Treasury Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal bonds and as Acceptable Reinsuring Companies)” and adding, in their place, the words “Treasury Department Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies”; and

**b.** By revising paragraph (b).

The revision reads as follows:

**§ 24.149 Corporate surety.**

\* \* \* \* \*

(b) Department of the Treasury Circular 570 is published in the Federal Register annually on the first business day in July, and supplemental changes are published periodically thereafter. The most recent circular and any supplemental changes to it may be viewed on the Bureau of the Fiscal Service Web site at <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.

\* \* \* \* \*

**48.** Section 24.151 is revised to read as follows:

**§ 24.151 Deposit of collateral security.**

Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited as collateral security in lieu of corporate sureties in accordance with the provisions of the Treasury Department regulations in 31 CFR part 225, Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties. Cash, postal money orders, certified checks, cashiers' checks, or treasurers' checks may also be furnished as collateral security in lieu of corporate sureties.

(July 30, 1947, Ch. 390, 61 Stat. 650 (6 U.S.C. 15); August 16, 1954, Ch. 736, 68A Stat. 847, as amended (26 U.S.C. 7101))

**§ 24.152 [Amended]**

**49.** Section 24.152 is amended by removing the words "Form 1533" and adding, in their place, the words "TTB Form 5000.18".

**50.** Section 24.154 is revised to read as follows:

**§ 24.154 Superseding bonds and new bonds for existing proprietors.**

(a) Superseding bonds. When, in the opinion of the appropriate TTB officer, the interests of the Government demand it, or in any case where the validity of the bond becomes impaired in whole or in part for any reason, the principal must give a new bond that supersedes the existing bond. A superseding bond will be required immediately in the case of the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, to continue or to liquidate the business of the principal, must execute and file a superseding bond or obtain the consent of the surety or sureties on the existing bond or bonds. When under the provisions of § 24.157 the surety has filed an application to be relieved of liability under any bond given under this part and the principal desires or intends to continue business or operations to which the bond relates, the principal must file a valid superseding bond to be effective on or before the date specified in the surety's notice. Superseding bonds will show the current date of execution and the effective date.

(b) New bonds for existing proprietors—(1) General. Subject to paragraph (b)(2) of this section, if an existing proprietor has not furnished a bond or bonds covering operations and withdrawals of wine for nonindustrial use because the proprietor was exempt from bond requirements under § 24.146(d), the proprietor must furnish a bond or bonds as provided in this subpart beginning in any portion of a calendar year following the first date on which the aggregate amount of tax due from the proprietor during the calendar year exceeds \$50,000. When



furnishing the bond or bonds, the proprietor must also file an amended application as provided in § 24.132 to change the proprietor's bond status.

(2) Grace period for wine bonds under § 24.146(a). An existing proprietor who must furnish a wine bond under § 24.146(a) as provided in paragraph (b)(1) of this section will be treated as having furnished the required bond if the proprietor submits the bond on TTB F 5120.36 no later than 30 days following the first date on which the aggregate amount of tax due from the proprietor during the relevant calendar year exceeds \$50,000. The proprietor will be treated as having furnished the required wine bond for purposes of this paragraph until TTB approves or disapproves the bond. Until TTB takes action on a bond submission, a proprietor who complies with the requirements of this paragraph may remove wine on which the tax has been determined, but not paid, to the extent that the proprietor's liability for tax on those removals does not exceed \$1,000.

(3) Tax deferral bonds under § 24.146(b). The grace period specified in paragraph (b)(2) of this section does not apply to tax deferral bonds under § 24.146(b). Except to the extent authorized under paragraph (b)(2) of this section, a proprietor who must furnish a tax deferral bond under paragraph (b)(1) of this section may not withdraw wine from the bonded premises on which the tax has been determined, but not paid, until TTB approves the tax deferral bond.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1394, as amended (26 U.S.C. 5354, 5362, 5551))

(Approved by the Office of Management and Budget under control number 1513-0009)

**§ 24.156 [Amended]**

51. Section 24.156 is amended by adding after the words “as provided in § 24.140(b);” the words “pursuant to an application by an existing proprietor who becomes exempt from bond requirements as provided in § 24.160;”.

52. Section 24.160 is added to subpart D to read as follows:

**§ 24.160 Application to terminate bond by existing proprietor who becomes exempt from bond requirements.**

If a proprietor has held a bond or bonds covering operations or withdrawals of wine for nonindustrial use and becomes exempt from those bond requirements as provided under § 24.146(d), the proprietor may apply to TTB to terminate the bond or bonds covering such operations or withdrawals. To apply, the proprietor must file an amended application as provided in § 24.132. The proprietor must accurately state in the submission that the proprietor:

(a) Will withdraw wine for deferred payment of tax under § 24.271;

(b) Reasonably expects to be liable for not more than \$50,000 in taxes with respect to wine imposed by 26 U.S.C. 5041 and 7652 for the current calendar year (see definition of “Reasonably expects” in § 24.271(b)(1)(iv)(B)); and

(c) Was liable for not more than \$50,000 in such taxes in the preceding calendar year.

53. In § 24.271, the section heading and paragraphs (a) and (b) are revised to read as follows:

**§ 24.271 Deferred payment return periods—annual, quarterly, and semimonthly.**

(a) General. This section governs payment of tax on a deferred basis.

The tax on wine is paid by an Excise Tax Return, TTB F 5000.24, which is filled with a remittance (check, cash, or money order) of the full amount of tax due.

Prepayments of tax on wine during the period covered by the return are shown separately on the Excise Tax Return form. If no tax is due for the return period, the filing of a return is not required.

(b) Return periods and due dates—(1) Return periods. (i) Semimonthly return period. Except in the case of a taxpayer who qualifies for, and chooses to use, an annual or quarterly return period as provided in paragraph (b)(1)(ii) or (b)(1)(iii) of this section, all taxpayers who defer payment of taxes must use semimonthly return periods. The semimonthly return periods run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in paragraph (c) of this section.

(ii) Annual return period. Subject to paragraph (b)(1)(iv) of this section, a taxpayer may choose to use an annual return period if the taxpayer was not liable for more than \$1,000 in taxes with respect to wine imposed by 26 U.S.C. 5041 and 7652 in the preceding calendar year and if that taxpayer reasonably expects to be liable for not more than \$1,000 in such taxes during the current calendar year. Except as provided in paragraph (b)(2), the last day for paying the tax and filing the return will be the 14th day after the last day of the calendar year. However, the taxpayer may not use the annual return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$1,000,

and any tax that has not been paid on that date will be due on the 14th day after the last day of the quarterly or semimonthly period in which that date occurs.

(iii) Quarterly return period. Except as provided in paragraph (b)(1)(ii) of this section and subject to paragraph (b)(1)(iv) of this section, a taxpayer may choose to use a quarterly return period if the taxpayer was not liable for more than \$50,000 in taxes with respect to wine imposed by 26 U.S.C. 5041 and 7652 in the preceding calendar year and if that taxpayer reasonably expects to be liable for not more than \$50,000 in such taxes during the current calendar year. In such a case the last day for paying the tax and filing the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$50,000, and any tax that has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(iv) Additional rules for annual and quarterly return periods. The following additional rules apply to the annual and quarterly return period procedures under this section:

(A) A “taxpayer” is an individual, corporation, partnership, or other entity that is assigned a single Employer Identification Number as defined in 26 CFR 301.7701–12;

(B) “Reasonably expects” means that there is no existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's tax liability to exceed the prescribed limit;

(C) A taxpayer with multiple locations must combine the wine tax liability for all locations to determine eligibility for the return procedures;

(D) A taxpayer who has both domestic operations and import transactions must combine the wine tax liability on the domestic operations and the imports to determine eligibility for the return procedures;

(E) The controlled group rules of 26 U.S.C. 5061(e), which concern treatment of controlled groups as one taxpayer, do not apply for purposes of determining eligibility for the return procedures. However, a taxpayer who is eligible for the return procedures, and who is a member of a controlled group that owes \$5 million or more in wine excise taxes per year, is required to pay taxes by electronic fund transfer (EFT). Payments via EFT must be transmitted in accordance with section 5061(e);

(F) A new taxpayer is eligible to use the return procedures the first year of business simply if the taxpayer reasonably expects to be liable for not more than \$1,000 (in the case of the annual return procedure) or \$50,000 (in the case of the quarterly return procedure) in wine taxes during that calendar year; and

(G) If a taxpayer becomes ineligible to use a return procedure described in paragraph (b)(1)(ii) or (iii) of this section because the taxpayer's liability exceeds \$1,000 or \$50,000, respectively, in tax liability during a taxable year, that taxpayer may resume using that return procedure only after a full calendar year

has passed during which the taxpayer's liability did not exceed \$1,000 or \$50,000 as the case may be. A taxpayer may not use an annual or quarterly return procedure during any calendar year in which the taxpayer reasonably expects to be liable for more than \$1,000, in the case of the annual return procedure, or \$50,000, in the case of the quarterly return procedure, in wine taxes.

(2) Semimonthly, quarterly, and annual tax return due dates. (i) General.

Except as provided in paragraph (b)(2)(ii), the taxpayer must file the semimonthly, quarterly, or annual return, with remittance, for each return period not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance are due on the immediately preceding day that is not a Saturday, Sunday, or legal holiday, except as otherwise provided in paragraph (c)(3) of this section.

(ii) Due dates for 2016 annual returns. In the case of a taxpayer filing an annual return covering the 2016 calendar year, the taxpayer must file the return, with remittance, not later than January 30, 2017.

\* \* \* \* \*

**§ 24.273 [Removed and Reserved]**

**54.** Section 24.273 is removed and reserved.

**55.** In § 24.275, paragraph (a) is revised to read as follows:

**§ 24.275 Prepayment of tax.**

(a) General—(1) Circumstances where prepayment required. The proprietor must, before removal of wine for consumption or sale, file Excise Tax Return, TTB F 5000.24, with remittance, where:

(i) The proprietor is required to prepay tax under § 24.276; or

(ii) The proprietor is required to obtain a tax deferral bond, the bond is not in the maximum penal sum, and the tax determined and unpaid at any one time exceeds the coverage of the wine bond.

(2) Forwarding the return with remittance. The proprietor must forward the return with remittance pursuant to the instructions printed on the return. For the purpose of complying with this section, the term “forwarding” means the deposit in the United States mail properly addressed to TTB.

\* \* \* \* \*

**56.** In § 24.283, the second sentence is revised to read as follows;

**§ 24.283 Reconsignment.**

\* \* \* The proprietor to whom the wine is reconsigned will be liable for the tax on the wine while it is in transit after reconsignment. \* \* \*

\* \* \* \* \*

**§ 24.300 [Amended]**

**57.** Section 24.300 is amended as follows:

**a.** In paragraph (g)(2)(ii), by removing the citation “§ 24.271” and adding, in its place, the citation “§ 24.271(b)(1)(iii)”; and

**b.** In paragraph (g)(2)(iii), by removing the citation “§ 24.273” and adding, in its place, the citation “§ 24.271(b)(1)(ii)”.

**§ 24.323 [Amended]**

**58.** In § 24.323, the first sentence is amended by removing the words “, unless exempted under the provisions of § 24.273”.

## **PART 25—BEER**

**59.** The authority citation for part 25 continues to read as follows:

**Authority:** 19 U.S.C. 81c; 26 U.S.C. 5002, 5051–5054, 5056, 5061, 5121, 5122–5124, 5222, 5401–5403, 5411–5417, 5551, 5552, 5555, 5556, 5671, 5673, 5684, 6011, 6061, 6065, 6091, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6651, 6656, 6676, 6806, 7342, 7606, 7805; 31 U.S.C. 9301, 9303–9308.

### **§ 25.4 [Amended]**

**60.** In § 25.4, the list of related regulations is amended by removing the entry “31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds” and adding, in its place, the entry “31 CFR Part 225—Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties”.

**61.** Section 25.11 is amended by adding, in alphabetical order, definitions of “Bonded premises of a distilled spirits plant”, “Bonded wine premises”, and “Bonded winery” to read as follows:

#### **§ 25.11 Meaning of terms.**

\* \* \* \* \*

Bonded premises of a distilled spirits plant. The bonded premises of a distilled spirits plant as described in part 19 of this chapter. This term includes premises described in the preceding sentence even if the distilled spirits plant proprietor, as authorized under the exemption set forth in § 19.151(d) of this chapter, has not provided a bond for the premises.



Bonded wine premises. Bonded wine premises established under part 24 of this chapter. This term includes premises described in the preceding sentence even if the proprietor, as authorized under the exemption set forth in § 24.146(d) of this chapter, has not provided a bond for the premises.

Bonded winery. The premises of a bonded winery as described in part 24 of this chapter. This term includes premises described in the preceding sentence even if the proprietor, as authorized under § 24.146(d) of this chapter, has not provided a bond for the premises.

\* \* \* \* \*

**62.** Section 25.62 is amended by adding paragraph (a)(13) to read as follows:

**§ 25.62 Data for notice.**

(a) \* \* \*

(13) A statement whether the brewer is required to furnish a bond under § 25.91.

\* \* \* \* \*

**63.** Section 25.72 is amended as follows:

**a.** In the third sentence of paragraph (a), by adding after the words “own name” the words “, except that the successor brewer is not required to file a bond if the brewer is exempt from bond requirements under § 25.91(e)”; and

**b.** In paragraph (b)(1), by adding a second sentence.

The addition reads as follows:

**§ 25.72 Change in proprietorship.**

\* \* \* \*

(b) \* \*

(1) \* \* \* A fiduciary is not required to furnish a consent of surety under this paragraph if the brewer is exempt from bond requirements under § 25.91(e).

\* \* \* \*

**64.** Section 25.73 is amended as follows:

**a.** In paragraph (b)(3), by removing the words “A consent” and adding, in their place, the words “If the brewer has filed a bond, a consent”; and

**b.** By revising paragraph (c).

The revision reads as follows:

**§ 25.73 Change in partnership.**

\* \* \* \*

(c) Settlement of partnership. If the surviving partner(s) acquires the business on completion of the settlement of the partnership, that partner(s) must qualify in his or her own name from the date of acquisition. The partner(s) must give a new brewer's notice on Form 5130.10 and a new bond on Form 5130.22, except that the partner(s) is not required to file a bond if the brewer is exempt from bond requirements under § 25.91(e).

\* \* \* \*

**65.** Section 25.77 is amended as follows:

a. In the first sentence, by removing the words “Form 1533 (5000.18) in accordance with” and adding, in their place, the words “Form 5000.18, as required under”; and

b. By adding a new second sentence.

The addition reads as follows:

**§ 25.77 Change in location.**

\* \* \* The brewer is not required to file a new bond or consent of surety if the brewer is exempt from bond requirements under § 25.91(e).

\* \* \*

\* \* \* \* \*

**66.** Section 25.79 is added immediately after § 25.78 and before the undesignated center heading to read as follows:

**§ 25.79 Change in bond status.**

A brewer must file an amended Brewer’s Notice, Form 5130.10, if the brewer’s bond status changes because either:

(a) A brewer has not furnished any bond and has become required to furnish a bond as provided under § 25.95(b); or

(b) A brewer has furnished a bond, has become exempt from bond requirements under § 25.91(e), and chooses to terminate all bond coverage as provided under § 25.106.

**§ 25.81 [Amended]**

**67.** In § 25.81, paragraph (b)(3) is amended by adding after the words “alternation of premises” the words “, except to the extent no bond is required under § 24.146 of this chapter or § 25.91(e)”.

**68.** Section 25.91 is amended as follows:

**a.** In the first sentence of paragraph (a), by removing the words “Every person” and adding, in their place, “Except as provided in paragraph (e) of this section, every person”; and

**b.** By adding paragraph (e).

The addition reads as follows:

**§ 25.91 Requirement for bond.**

\* \* \* \* \*

(e) Bond exemption. A brewer who pays tax on a deferred basis under § 25.164 is not required to provide a bond to cover operations and withdrawals of beer during any portion of a calendar year for which the brewer is eligible to use an annual or quarterly return period under § 25.164(c)(2) or (c)(3). A brewer is considered to be paying tax on a deferred basis for purposes of the preceding sentence even if the brewer does not pay tax during every return period as long as the brewer intends to pay tax in a future period. See §§ 25.62 and 25.79 for rules governing applying for this bond exemption. See § 25.95 for rules governing when an existing brewer who has not provided a bond under this paragraph must obtain bond coverage.

\* \* \* \* \*

**§ 25.92 [Amended]**

**69.** Section 25.92 is amended by removing the words “Form 1533 (5000.18)” and adding, in their place, the words “Form 5000.18”.

**70.** In § 25.93, paragraph (a) is revised to read as follows:

**§ 25.93 Penal sum of bond.**

(a) General. Except as provided in paragraph (a)(3) of this section, a brewer must furnish a bond of a penal sum as prescribed in this section.

(1) Brewers who pay taxes using semimonthly periods. In the case of a brewer who pays taxes using semimonthly return periods under § 25.164(c)(1), the penal sum of the brewers bond must be equal to 10 percent of the maximum amount of tax calculated at the rates prescribed by law which the brewer will become liable to pay during a calendar year during the period of the bond on beer:

(i) Removed for transfer to the brewery from other breweries owned by the same brewer;

(ii) Removed without payment of tax for export or for use as supplies on vessels and aircraft;

(iii) Removed without payment of tax for use in research, development, or testing; and

(iv) Removed for consumption or sale.

(2) Brewers who pay taxes using quarterly or annual return periods. In the case of a brewer who pays taxes using annual or quarterly return periods under § 25.164(c)(2) or (c)(3), the penal sum of the brewers bond is \$1,000 and covers the beer described in paragraph (a)(1)(i)–(iv) of this section.

(3) Brewers who are exempt from bond requirements. This section does not apply to a brewer who is exempt from bond requirements under § 25.91(e).

\* \* \* \* \*

71. Section 25.95 is revised to read as follows:

**§ 25.95 Superseding bonds and new bonds for existing brewers.**

(a) Superseding bonds. The appropriate TTB officer may at any time, at his or her discretion, require a new bond that supersedes the existing bond. A superseding bond is required immediately in the case of insolvency of a surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity must execute a superseding bond or obtain a consent of surety on all bonds in effect. When the interests of the Government so demand, or in any case when the security of the bond becomes impaired for any reason, the principal will be required to give a superseding bond. When a bond is found to be not acceptable by the appropriate TTB officer, the principal will be required immediately to obtain a satisfactory superseding bond or discontinue business.

(b) New bonds for existing brewers—(1) General. Subject to paragraph (b)(2) of this section, if an existing brewer has not furnished a bond covering operations and withdrawals of beer because the brewer was exempt from bond requirements under § 25.91(e), the brewer must furnish a bond as provided in this subpart beginning in any portion of a calendar year following the first date on which the aggregate amount of tax due from the brewer during the calendar year exceeds \$50,000. When furnishing the bond, the brewer must also file an amended Brewer's Notice, Form 5130.10, as provided in § 25.79 to change the brewer's bond status.

(2) Grace period for new bonds for existing brewers—(i) Bonds covering operations. Except as provided in paragraph (b)(2)(ii) of this section, an existing

brewer who must furnish a bond as provided in paragraph (b)(1) of this section will be treated as having furnished the required bond if the brewer submits the bond on Form 5130.22 no later than 30 days following the first date on which the aggregate amount of tax due from the brewer during the relevant calendar year exceeds \$50,000. Except as provided in paragraph (b)(2)(ii) of this section, the brewer will be treated as having furnished the required bond for the purposes of this paragraph until TTB approves or disapproves the bond.

(ii) Bonds covering tax-deferred removals. The grace period specified in paragraph (b)(2)(i) of this section does not apply to beer removed for consumption or sale on deferred payment of tax. A brewer that must furnish a bond under paragraph (b)(1) of this section may not remove beer for consumption or sale on deferred payment of tax until TTB approves the bond. (Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

**72.** Section 25.98 is amended as follows:

**a.** In paragraph (b), by removing the words “Circular No. 570, Companies Holding Certificates of Authority as Acceptable Reinsuring Companies” and adding, in their place, the words “Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies”;

**b.** By revising paragraph (c);

**c.** In paragraph (e), by removing the citation “Part 225” and adding, in its place, the citation “part 225”; and

**d.** By adding paragraph (f).

The revision and addition read as follows:

**§ 25.98 Surety or security.**

\* \* \* \* \*

(c) Availability of Circular 570. Department of the Treasury Circular 570 is published in the Federal Register annually on the first business day in July, and supplemental changes are published periodically thereafter. The most recent circular and any supplemental changes to it may be viewed on the Bureau of the Fiscal Service Web site at

<https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.

\* \* \* \* \*

(f) Bond guaranteed by deposit of cash or cash equivalent. As an alternative to the corporate surety bond under paragraph (b) of this section, a person can file a bond that guarantees payment of the liability by submitting cash or its equivalent (including a money order, cashier's check, or personal check). Cash or its equivalent must be no less than the penal sums of the required bonds. Bonds described in this paragraph will be released if there are no outstanding liabilities when the bond is terminated. Cash equivalents must be payable to the Alcohol and Tobacco Tax and Trade Bureau.

\* \* \* \* \*



**73.** Section 25.102 is revised to read as follows:

**§ 25.102 Termination of surety's liability.**

The liability of a surety on a bond required by this part will be terminated only as to liability arising on or after:

- (a) The effective date of a superseding bond;
- (b) The date of approval of the discontinuance of business of the brewer;
- (c) Following the giving of notice by the surety; or

(d) In the case of a brewer who applies to terminate a surety bond under § 25.106, the date that TTB approves the brewer's application under that section.  
(Sec. 201, Pub. L. 85-859, 72 Stat. 1388, as amended (26 U.S.C. 5401))

**74.** Section 25.104 is revised to read as follows:

**§ 25.104 Termination of bonds.**

(a) General. Brewer's bonds may be terminated as to liability for future removals or receipts under the following circumstances:

- (1) Pursuant to application of the surety as provided in § 25.103;
- (2) On approval of a superseding bond as provided in § 25.95;
- (3) When a brewer discontinues business as provided in § 25.85; or
- (4) When an existing brewer who becomes exempt from bond

requirements terminates the bond as provided in § 25.106.

(b) Notification. On termination of the surety's liability under a bond, the appropriate TTB officer will notify the principal and sureties.

(31 U.S.C. 9301, 9303)

**§ 25.105 [Amended]**

75. In § 25.105, the first sentence is amended by removing the citation “31 CFR Part 225” and adding, in their place, the citation “31 CFR part 225”.

76. Section 25.106 is added to subpart H to read as follows:

**§ 25.106 Application to terminate bond by existing brewer who becomes exempt from bond requirements.**

If a brewer has held a bond and becomes exempt from bond requirements under § 24.91(e), the brewer may apply to TTB to terminate the bond. To apply, the brewer must file an amendment to the Brewer’s Notice, Form 5130.10, as provided in § 25.79. The brewer must accurately state in the submission to TTB that the brewer:

- (a) Will withdraw beer for deferred payment of tax under § 25.164;
- (b) Reasonably expects to be liable for not more than \$50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 for the current calendar year (see definition of “Reasonably expects” in § 25.164(c)(4)(ii)); and
- (c) Was liable for not more than \$50,000 in such taxes in the preceding calendar year.

77. Section 25.164 is revised to read as follows:

**§ 25.164 Deferred payment return periods—annual, quarterly, and semimonthly.**

(a) Requirement for filing. This section governs payment of tax on a deferred basis. Each brewer must pay the tax on beer (unless prepaid) by return on Form 5000.24. The brewer must file Form 5000.24 as a return regardless of

whether tax has been prepaid as provided in § 25.175 during the return period. The brewer must file a return on Form 5000.24 for each return period even though no beer was removed for consumption or sale.

(b) Payment of tax. The brewer must include for payment with the return the full amount of tax required to be determined (and which has not been prepaid) on all beer removed for consumption or sale during the period covered by the return.

(c) Return periods—(1) Semimonthly return period. Except in the case of a taxpayer who qualifies for annual or quarterly return periods as provided in paragraphs (c)(2) or (c)(3) of this section, all taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods run from the brewer's business day beginning on the first day of each month through the brewer's business day beginning on the 15th day of that month, and from the brewer's business day beginning on the 16th day of the month through the brewer's business day beginning on the last day of the month, except as otherwise provided in § 25.164a.

(2) Annual return period. Subject to paragraph (b)(4) of this section, a taxpayer who reasonably expects to be liable for not more than \$1,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 in the current calendar year, and that was liable for not more than \$1,000 in such taxes in the preceding calendar year, may choose to use an annual return period. However, the taxpayer may not use the annual return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due

from the taxpayer during the calendar year exceeds \$1,000, and any tax which has not been paid on that date will be due on the 14th day after the last day of the quarterly or semimonthly period in which that date occurs.

(3) Quarterly return period. A taxpayer may choose to use a quarterly return period if the taxpayer was not liable for more than \$50,000 in taxes with respect to beer imposed by 26 U.S.C. 5051 and 7652 in the preceding calendar year and if that taxpayer reasonably expects to be liable for not more than \$50,000 in such taxes during the current calendar year. In such a case the last day for paying the tax and filing the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$50,000, and any tax that has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(4) Additional rules for annual and quarterly return periods. The following additional rules apply to the annual and quarterly return period procedure under this section:

(i) A “taxpayer” is an individual, corporation, partnership, or other entity that is assigned a single Employer Identification Number as defined in 26 CFR 301.7701–12;

(ii) "Reasonably expects" means that there is no existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's tax liability to exceed the prescribed limit;

(iii) A taxpayer with multiple locations must combine the beer tax liability for all locations to determine eligibility for the return procedures;

(iv) A taxpayer who has both domestic operations and import transactions must combine the beer tax liability on the domestic operations and the imports to determine eligibility for the return procedures;

(v) The controlled group rules of 26 U.S.C. 5061(e), which concern treatment of controlled groups as one taxpayer, do not apply for purposes of determining eligibility for the return procedures. However, a taxpayer who is eligible for the return procedures, and who is a member of a controlled group that owes \$5 million or more in beer excise taxes per year, is required to pay taxes by electronic fund transfer (EFT). Payments via EFT must be transmitted in accordance with section 5061(e);

(vi) A new taxpayer is eligible to use the return procedures in the first year of business simply if the taxpayer reasonably expects to be liable for not more than \$1,000 (in the case of the annual return procedure) or \$50,000 (in the case of the quarterly return procedure) in beer taxes during that calendar year; and

(vii) If a taxpayer becomes ineligible to use a return procedure prescribed in paragraph (c)(2) or (c)(3) of this section because the taxpayer's liability exceeds \$1,000 or \$50,000, respectively, during a taxable year, that taxpayer may resume using that return procedure only after a full calendar year has

passed during which the taxpayer's liability did not exceed \$1,000 or \$50,000, as the case may be. A taxpayer may not use an annual or quarterly return procedure during any calendar year in which the taxpayer reasonably expects to be liable for more than \$1,000, in the case of the annual return procedure, or \$50,000, in the case of the quarterly return procedure, in beer taxes.

(d) Time for filing returns and paying tax. Except as otherwise provided in § 25.164a for semimonthly tax returns, the brewer must file the tax return, TTB F 5000.24, for each return period, and make remittance as required by this section, not later than the 14th day after the last day of the return period. If the due date falls on a Saturday, Sunday, or legal holiday, the return and remittance are due on the immediately preceding day that is not a Saturday, Sunday, or legal holiday, except as otherwise provided in § 25.164a(c).

(e) Timely filing. (1) When the brewer sends the semimonthly, quarterly, or annual tax return, Form 5000.24, by U.S. mail, in accordance with the instructions on the form, as required by this section, with remittance as provided for in this section, or without remittance as provided for in § 25.165, the date of the official postmark of the United States Postal Service stamped on the cover in which the return and remittance were mailed is considered the date of delivery of the return and the date of delivery of the remittance, if enclosed with the return. When the postmark on the cover is illegible, the burden is on the brewer to prove when the postmark was made.

(2) When the brewer sends the semimonthly, quarterly, or annual return with or without remittance by registered mail or by certified mail, the date of

registry or the date of the postmark on the sender's receipt of certified mail will be treated as the date of delivery of the return and of the remittance, if enclosed with the return.

(Approved by the Office of Management and Budget under control number 1513–0083)

(Aug. 16, 1954, ch. 736, 68A Stat. 775, as amended (26 U.S.C. 6302); sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

**§ 25.174 [Amended]**

**78.** In § 25.174, the first sentence of paragraph (a) is amended by adding after the word “When” the words “a brewer has filed a bond and”.

**79.** In § 25.184, paragraph (a) is revised to read as follows:

**§ 25.184 Losses in transit.**

(a) Liability for losses. The brewery to which beer is transferred is liable for the tax on beer lost in transit. If beer is reconsigned while in transit or returned to the shipping brewery, the brewery to which the beer is reconsigned or returned is liable for the tax on beer lost in transit.

\* \* \* \* \*

**80.** Section 25.274 is amended as follows:

**a.** In the first sentence of paragraph (a), by removing the words “Any person” and adding, in their place, “Except as provided in paragraph (d) of this section, any person”; and

**b.** By adding paragraph (d).

The addition reads as follows:

**§ 25.274 Bond.**

\* \* \* \* \*

(d) Bond exemption. A person is not required to provide a bond under this section if the person is a brewer qualified under this part and if, under § 25.91(e), the person is exempt from bond requirements applicable to brewers.

\* \* \* \* \*

#### **§ 25.276 [Amended]**

**81.** In § 25.276, paragraph (a) is amended by adding the words “any required” before the word “bond”.

### **PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS**

**82.** The authority citation for part 26 is revised to read as follows:

**Authority:** 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5111–5114, 5121, 5122–5124, 5131–5132, 5207, 5232, 5271, 5275, 5301, 5314, 5555, 6001, 6109, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

**83.** Section 26.11 is amended by adding, in alphabetical order, the definition of “Bonded premises of a distilled spirits plant” to read as follows:

#### **§ 26.11 Meaning of terms.**

\* \* \* \* \*

Bonded premises of a distilled spirits plant. The bonded premises of a distilled spirits plant as described in part 19 of this chapter. This term includes premises described in the preceding sentence even if the distilled spirits plant



proprietor, as authorized under the exemption set forth in § 19.151(d) of this chapter, has not provided a bond for the premises.

\* \* \* \* \*

**84.** Section 26.62 is amended as follows:

**a.** In paragraph (a), by removing the words “Circular No. 570” and adding, in their place, the words “Circular 570”; and

**b.** By revising paragraph (b).

The revision reads as follows:

**§ 26.62 Corporate surety.**

\* \* \* \* \*

(b) Department of the Treasury Circular 570 is published in the Federal Register annually on the first business day in July, and supplemental changes are published periodically thereafter. The most recent circular and any supplemental changes to it may be viewed on the Bureau of the Fiscal Service Web site at <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.

\* \* \* \* \*

**85.** Section 26.63 is amended as follows:

**a.** By revising the section heading;

**b.** By redesignating the existing text as paragraph (a) and adding a paragraph heading;

**c.** In redesignated paragraph (a), by removing the words “Acceptance of Bonds, Notes or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds” and adding, in their place,

the words “Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties”; and

- d. By adding paragraph (b).

The revision and additions read as follows:

**§ 26.63 Deposit of securities or cash (including cash equivalents) in lieu of corporate surety.**

- (a) Deposit of securities. \* \* \*

(b) Deposit of cash or cash equivalent. In lieu of corporate surety, a person can file a bond that guarantees payment of the liability by submitting cash or its equivalent (including a money order, cashier’s check, or personal check). Cash or its equivalent must be no less than the penal sums of the required bonds. Cash equivalents must be payable to the Alcohol and Tobacco Tax and Trade Bureau.

\* \* \* \* \*

**§ 26.64 [Amended]**

**86.** Section 26.64 is amended by removing the words “Form 1533” and adding, in their place, the words “TTB Form 5000.18”.

**87.** Section 26.66 is amended as follows:

- a. By revising paragraph (a); and
- b. By adding paragraph (c).

The revision and addition read as follows:

**§ 26.66 Bond, TTB Form 5110.50—Distilled spirits.**

(a) General. Except as provided in paragraph (c) of this section, if any person intends to ship to the United States, distilled spirits products of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5001(a)(1), the person must, before making any such shipment, furnish a bond. The person must furnish a bond on TTB Form 5110.50 for each premises from which shipment will be made, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all distilled spirits products shipped. The bond must be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond. The penal sum of such bond must not exceed \$1,000,000, but in no case will the penal sum be less than \$1,000.

\* \* \* \* \*

(c) Bonds covering spirits for nonindustrial use and industrial use—(1)  
Nonindustrial use. A person who pays tax on a deferred basis under § 26.112 is not required to furnish a bond under this section to cover shipments of distilled spirits for nonindustrial use during any portion of a calendar year for which the person is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3). For purposes of the preceding sentence, a person is considered to be paying tax on a deferred basis even if the person does not pay tax during every return period as long as the person intends to pay tax in a future period. TTB may require a person who has defaulted on any payment to prepay tax as provided in § 26.112(e).

(2) Industrial use. A person is required to furnish a bond under this section to cover shipments of distilled spirits for industrial use even if the person pays tax on a deferred basis under § 26.112 and is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3). For bond requirements governing industrial spirits and other products brought into the United States without incurring tax liability, see § 26.36.

(3) Nonindustrial use and industrial use defined. The nonindustrial and industrial uses of distilled spirits are defined in subpart D of part 1 of this chapter.

\* \* \* \* \*

**88.** Section 26.67 is revised to read as follows:

**§ 26.67 Bond, TTB Form 5120.32—Wine.**

(a) General. Except as provided in paragraph (b) of this section, where a proprietor intends to withdraw, for purpose of shipment to the United States, wine of Puerto Rican manufacture from bonded storage in Puerto Rico on computation, but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5041, the proprietor must, before making any such withdrawal, furnish a bond. The proprietor must furnish the bond on TTB Form 5120.32, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all wine so withdrawn. The bond must be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond. The penal sum of such bond must not exceed \$250,000, but in no case will the penal sum be less than \$500.

(b) Bonds covering wine for nonindustrial use and industrial use—(1)

Nonindustrial use. A proprietor who pays tax on a deferred basis under § 26.112 is not required to furnish a bond under this section to cover shipments of wine for nonindustrial use during any portion of a calendar year for which the proprietor is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3). For purposes of the preceding sentence, the proprietor is considered to be paying tax on a deferred basis even if the proprietor does not pay tax during every return period as long as the proprietor intends to pay tax in a future period. TTB may require a proprietor who has defaulted on any payment to prepay tax as provided in § 26.112(e).

(2) Industrial use. A proprietor is required to furnish a bond under this section to cover shipments of wine for industrial use even if the proprietor pays tax on a deferred basis under § 26.112 and is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3).

(3) Nonindustrial use and industrial use defined. The nonindustrial and industrial uses of wine are defined in subpart D of part 1 of this chapter.

(Aug. 16, 1954, Chapter 736, 68A Stat. 775, as amended, 847, as amended, 906, 907, as amended (26 U.S.C. 6302, 7101, 7102, 7651(2)(B), 7652(a)))

**89.** Section 26.68 is revised to read as follows:

**§ 26.68 Bond, TTB Form 5130.16—Beer.**

(a) General. Except as provided in paragraph (b) of this section, where a brewer intends to withdraw, for purpose of shipment to the United States, beer of Puerto Rican manufacture from bonded storage in Puerto Rico on computation,

but before payment, of the tax imposed by 26 U.S.C. 7652(a), equal to the tax imposed in the United States by 26 U.S.C. 5051, the brewer must, before making any such withdrawal, furnish a bond. The brewer must furnish the bond on TTB Form 5130.16, to secure payment of such tax, at the time and in the manner prescribed in this subpart, on all beer so withdrawn. The bond must be executed in a penal sum not less than the amount of unpaid tax which, at any one time, is chargeable against the bond. The penal sum of such bond must not exceed \$500,000, but in no case will the penal sum be less than \$1,000.

(b) Bond exemption for certain brewers based on tax liability. A brewer who pays tax on a deferred basis under § 26.112 is not required to furnish a bond under this section to cover shipments of beer during any portion of a calendar year for which the brewer is eligible to use an annual or quarterly return period under § 26.112(b)(2) or (b)(3). For purposes of the preceding sentence, the brewer is considered to be paying tax on a deferred basis even if the brewer does not pay tax during every relevant period as long as the brewer intends to pay tax in a future period. TTB may require a brewer who has defaulted on any payment to prepay tax as provided in § 26.112(e).

(Aug. 16, 1954, Chapter 736, 68A Stat. 775, as amended, 847, as amended, 906, 907, as amended (26 U.S.C. 6302, 7101, 7102, 7651(2)(B), 7652(a)))

#### **§ 26.68a [Amended]**

**90.** In § 26.68a, the second sentence is amended as follows:

**a.** By removing the words “TTB Form 5110.51 or 2900” and adding, in their place, the words “TTB Form 5110.51 or 5100.21”; and

**b.** By removing the words “, TTB Form 5110.32, 2927, or 2929,”.

91. Section 26.70 is revised to read as follows:

**§ 26.70 Superseding bonds and new bonds for previously exempt persons.**

(a) Superseding bonds. Superseding bonds will be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of an existing bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a superseding bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 26.72, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the operations to which such bond relates, he must file a valid superseding bond to be effective on or before the date specified in the surety's notice. Superseding bonds must show the current date of execution and the effective date.

(b) New bonds for previously exempt persons. If a person has not furnished a bond as provided in this subpart because the person was exempt from bond requirements under §§ 26.66(c), 26.67(b), or 26.68(b), the person must furnish a bond to cover shipments following the first date on which the aggregate amount of tax due from the person during the calendar year exceeds \$50,000. If a person has not furnished the required bond for shipments under this subpart, the person must prepay tax on those shipments as provided in § 26.112(e).

**§ 26.71 [Amended]**

**92.** In § 26.71, paragraph (c) is amended by adding after the words “under the bond” the words “(including for the reason that the principal is exempt from bond requirements under §§ 26.66(c), 26.67(b), or 26.68(b))”.

**93.** Section 26.74 is revised to read as follows:

**§ 26.74 Release of pledged securities or cash (including cash equivalents).**

Securities of the United States pledged and deposited as provided in § 26.63(a), will be released only in accordance with the provisions of 31 CFR part 225. Securities and cash (including cash equivalents) will not be released by the appropriate TTB officer until the liability under the bond for which they were pledged has been terminated. When the appropriate TTB officer is satisfied that they may be released, the appropriate TTB officer will fix the date or dates on which a part or all of such securities and cash (including cash equivalents) may be released. At any time prior to the release, the appropriate TTB officer may extend the date of release for such additional length of time as the appropriate TTB officer deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

**94.** Section 26.75 is amended as follows:

**a.** By revising the section heading; and

**b.** By removing the words “Form 1490” and adding, in their place, the words “TTB Form 5000.23 PR”.

The revision reads as follows:

**§ 26.75 TTB Form 5000.23 PR, Notice of Termination of Bond.**

\* \* \* \* \*



**§ 26.76 [Amended]**

**95.** Section 26.76 is amended as follows:

**a.** By removing the words “Form 2900” and adding, in their place, the words “TTB Form 5100.21”; and

**b.** By removing the words “Form 487B” and adding, in their place, the words “TTB Form 5170.7”.

**96.** Section 26.80 is amended as follows:

**a.** By revising paragraph (a); and

**b.** By revising the Office of Management and Budget control number reference at the end of the section.

The revisions read as follows:

**§ 26.80 Deferred payment of tax—release of spirits.**

(a) Action by proprietor. Where the proprietor wishes to defer payment of tax, he must execute an agreement on TTB Form 5110.51 to pay the amount of tax which has been computed and entered on the form. If a bond is required under § 26.66, he must certify, under the penalties of perjury, that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the distilled spirits described on the form in addition to all other amounts chargeable against this bond. If the proprietor deferring payment of tax is not required to provide a bond under § 26.66, the proprietor must certify under the penalties of perjury that the proprietor was liable for not more than \$50,000 in taxes in the preceding calendar year, reasonably expects to be liable for not more than \$50,000 during the current calendar year, and is not using the TTB Form 5100.21

for any shipment of distilled spirits for industrial use. The proprietor must deliver all copies of TTB Form 5110.51 and any package gauge record as provided in § 26.164a to the revenue agent.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control number 1513–0056)

**§ 26.87 [Amended]**

**97.** Section 26.87 is amended by removing the words “Form 487B” and adding, in their place, the words “TTB Form 5170.7”.

**98.** Section 26.93 is amended as follows:

**a.** By revising the section heading; and

**b.** By removing the words “Form 2900” and adding, in their place, the words “TTB Form 5100.21”.

The revision reads as follows:

**§ 26.93 Application and permit, TTB Form 5100.21.**

\* \* \* \* \*

**99.** Section 26.95 is amended as follows:

**a.** By revising paragraph (a);

**b.** In paragraph (b), by removing the words “Form 2900” each place they appear and adding, in their place, the words “TTB Form 5100.21”; and

**c.** In paragraph (b), by removing the words “Form 2897” and adding, in their place, the words “TTB Form 5120.32”.

The revision reads as follows:

**§ 26.95 Deferred payment of tax—release of wine.**

(a) Action by proprietor. Where the proprietor wishes to defer payment of tax, he must execute the agreement on TTB Form 5100.21 to pay the amount of tax which has been computed and entered on the form. If a bond is required under § 26.67, he must certify under the penalties of perjury that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the wine described on the form in addition to all other amounts chargeable against his bond. If the proprietor deferring payment of tax is not required to provide a bond under § 26.67, the proprietor must certify under the penalties of perjury that the proprietor was liable for not more than \$50,000 in taxes in the preceding calendar year, reasonably expects to be liable for not more than \$50,000 during the current calendar year, and is not using the TTB Form 5100.21 for any shipment of wine for industrial use. The proprietor must deliver all copies of TTB Form 5100.21 to the revenue agent.

\* \* \* \* \*

#### **§ 26.97 [Amended]**

**100.** Section 26.97 is amended as follows:

**a.** By removing the words “Form 487B” and adding, in their place, the words “TTB Form 5170.7”; and

**b.** By removing the word “487B–61–3” and adding, in its place, the words “5170.7–17–1”.

**101.** Section 26.102 is amended as follows:

**a.** By revising the section heading; and

b. By removing the words “Form 2900” each place they appear and adding, in their place, the words “TTB Form 5100.21”.

The revision reads as follows:

**§ 26.102 Application and permit, TTB Form 5100.21.**

\* \* \* \* \*

**§ 26.103 [Amended]**

**102.** Section 26.103 is amended by removing the words “Form 2900” and adding, in their place, the words “TTB Form 5100.21”.

**103.** Section 26.104 is amended as follows:

a. By revising paragraph (a);

b. In paragraph (b), by removing the words “Form 2900” each place they appear and adding, in their place, the words “TTB Form 5100.21”; and

c. In paragraph (b), by removing the words “Form 2898” and adding, in their place, the words “TTB Form 5130.16”.

The revision reads as follows:

**§26.104 Deferred payment of tax—release of beer.**

(a) Action by brewer. Where the brewer will defer payment of tax, he must execute the agreement on TTB Form 5100.21 to pay the amount of tax which has been computed and entered on the form. If a bond is required under § 26.68, he must certify under the penalties of perjury that he is not in default of any payment of tax chargeable against his bond, and that his bond is in the maximum penal sum, or that it is sufficient to cover the amount of tax on the beer described on the form in addition to all other amounts chargeable against his bond. If the brewer deferring payment of tax is not required to provide a bond

under § 26.68, the brewer must certify under the penalties of perjury that the brewer was liable for not more than \$50,000 in taxes in the preceding calendar year and reasonably expects to be liable for not more than \$50,000 during the current calendar year. The brewer must deliver all copies of Form 5100.21 to the revenue agent.

\* \* \* \* \*

**§ 26.106 [Amended]**

**104.** Section 26.106 is amended as follows:

**a.** By removing the words “Form 487B” and adding, in their place, the words “TTB Form 5170.7”; and

**b.** By removing the word “487B–61–3” and adding, in its place, the words “5170.7–17–1”.

**105.** Section 26.108 is amended as follows:

**a.** By revising the section heading; and

**b.** By removing the words “Form 2900” from paragraph (b) and adding, in their place, the words “TTB Form 5100.21”.

The revision reads as follows:

**§ 26.108 Application for permit, TTB Form 5100.51 and/or 5100.21.**

\* \* \* \* \*

**§ 26.110 [Amended]**

**106.** Section 26.110 is amended by removing the words “Form 2900” each place they appear and adding, in their place, the words “TTB Form 5100.21”.

**107.** Section 26.112 is amended as follows:

- a. By revising paragraph (b);
- b. In paragraph (d), by removing the words “TTB F 5000.24” each place they appear and adding, in their place, the words “TTB Form 5000.25”; and
- c. In paragraph (e), by removing the word “bonded”.

The revision reads as follows:

**§ 26.112 Returns for deferred payment of tax.**

\* \* \* \* \*

(b) Return periods—(1) Semimonthly return period. Except in the case of a taxpayer who qualifies for, and chooses to use, annual or quarterly return periods as provided in paragraph (b)(2) or (b)(3) of this section, all taxpayers must use semimonthly return periods for deferred payment of tax. The semimonthly return periods run from the 1st day through the 15th day of each month, and from the 16th day through the last day of each month, except as otherwise provided in paragraph (d) of this section.

(2) Annual return period. Subject to paragraph (b)(4) of this section, a taxpayer may choose to use an annual return period if the taxpayer was not liable for more than \$1,000 in taxes imposed by 26 U.S.C. 7652 in the preceding calendar year and if that taxpayer reasonably expects to be liable for not more than \$1,000 in such taxes during the current calendar year. In such a case the last day for paying the tax and filing the return will be the 14th day after the last day of the calendar year. However, the taxpayer may not use the annual return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$1,000, and any tax that has not been paid on that date will be due

on the 14th day after the last day of the quarterly or semimonthly period in which that date occurs.

(3) Quarterly return period. Except as provided in paragraph (b)(2) of this section and subject to paragraph (b)(4) of this section, a taxpayer may choose to use a quarterly return period if the taxpayer was not liable for more than \$50,000 in taxes imposed by 26 U.S.C. 7652 in the preceding calendar year and if that taxpayer reasonably expects to be liable for not more than \$50,000 in such taxes during the current calendar year. In such a case the last day for paying the tax and filing the return will be the 14th day after the last day of the calendar quarter. However, the taxpayer may not use the quarterly return period procedure for any portion of the calendar year following the first date on which the aggregate amount of tax due from the taxpayer during the calendar year exceeds \$50,000, and any tax that has not been paid on that date will be due on the 14th day after the last day of the semimonthly period in which that date occurs.

(4) The following additional rules apply to the annual and quarterly return period procedures under this section:

(i) A “taxpayer” is an individual, corporation, partnership, or other entity that is assigned a single Employer Identification Number as defined in 26 CFR 301.7701-12;

(ii) “Reasonably expects” means that there is no existing or anticipated circumstance known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's tax liability to exceed the prescribed limit;

(iii) A taxpayer with multiple locations must combine the tax liability for all locations with respect to distilled spirits, wine, or beer tax liability to determine eligibility for the return procedures;

(iv) A taxpayer who has both domestic operations and import transactions must combine the tax liability on the domestic operations and the imports with respect to distilled spirits, wine, or beer tax liability to determine eligibility for the return procedures;

(v) The controlled group rules of 26 U.S.C. 5061(e), which concern treatment of controlled groups as one taxpayer, do not apply for purposes of determining eligibility for the return procedures. However, a taxpayer who is eligible for the return procedures, and who is a member of a controlled group that owes \$5 million or more in distilled spirits, wine, or beer excise taxes per year, is required to pay taxes by electronic fund transfer (EFT). Quarterly payments via EFT must be transmitted in accordance with section 5061(e);

(vi) A new taxpayer is eligible to use the return procedures in the first year of business simply if the taxpayer reasonably expects to be liable for not more than \$1,000 (in the case of the annual return procedure) or \$50,000 (in the case of the quarterly return procedure) in distilled spirits, wine, or beer taxes during that calendar year; and

(vii) If a taxpayer becomes ineligible to use a return procedure described in paragraph (b)(2) or (3) of this section because the taxpayer's liability exceeds \$1,000 or \$50,000, respectively, during a taxable year, that taxpayer may resume that return procedure only after a full calendar year has passed during which the



taxpayer's liability did not exceed \$1,000 or \$50,000 as the case may be. A taxpayer may not use an annual or quarterly return procedure during any calendar year in which the taxpayer reasonably expects to be liable for more than \$1,000 (in the case of the annual return procedure) or \$50,000 (in the case of the quarterly return procedure) in distilled spirits, wine, or beer taxes.

\* \* \* \* \*

**108.** In § 26.113, paragraph (a) is amended by adding a new first sentence immediately after the paragraph heading to read as follows:

**§ 26.113 Returns for prepayment of taxes.**

(a) \* \* \* Except as provided in §§ 26.66(c), 26.67(b), or 26.68(b), a proprietor must have an approved bond to defer payment of taxes. \* \* \*.

\* \* \* \* \*

**109.** Section 26.115 is amended as follows:

**a.** By revising the section heading; and

**b.** By removing the words “Form 487B” each place they appear and adding, in their place, the words “TTB Form 5170.7”.

The revision reads as follows:

**§ 26.115 Application, TTB Form 5170.7.**

\* \* \* \* \*

**110.** Section 26.116 is amended as follows:

**a.** By revising the section heading;

**b.** In the first sentence, by removing the words “, pursuant to a sufficient bond,”; and

c. By removing the words “Form 487B” each place they appear and adding, in their place, the words “TTB Form 5170.7”.

The revision reads as follows:

**§ 26.116 Issuance of permit, TTB Form 5170.7, and customs inspection.**

\* \* \* \* \*

**§ 26.117 [Amended]**

111. Section 26.117 is amended by removing the words “Form 487B” and adding, in their place, the words “TTB Form 5170.7”.

**§ 26.118 [Amended]**

112. Section 26.118 is amended by removing the words “Form 487B” each place they appear and adding, in their place, the words “TTB Form 5170.7”.

**§ 26.119 [Amended]**

113. Section 26.119 is amended by removing the words “Form 487B” and adding, in their place, the words “TTB Form 5170.7”.

**§ 26.165 [Amended]**

114. In § 26.165, paragraph (a) introductory text is amended by removing the words “TTB bond” and adding, in their place, the words “the bonded premises of a distilled spirits plant”.

115. The heading for subpart Ib is revised to read as follows:

**Subpart Ib—Shipment of Bulk Distilled Spirits From Puerto Rico, Without Payment of Tax, for Transfer From Customs Custody to the Bonded Premises of a Distilled Spirits Plant**

**§ 26.199 [Amended]**

116. Section 26.199 is amended by removing the words “internal revenue bond” and adding, in their place, the words “the bonded premises of a distilled spirits plant”.

**§ 26.199d [Amended]**

117. In § 26.199d, paragraph (b) is amended by removing the words “internal revenue bond” and adding, in their place, the words “the bonded premises of a distilled spirits plant”.

118. The heading for subpart Oa is revised to read as follows:

**Subpart Oa—Shipment of Bulk Distilled Spirits From the Virgin Islands,  
Without Payment of Tax, for Transfer From Customs Custody to the  
Bonded Premises of a Distilled Spirits Plant**

**PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER**

119. The authority citation for part 27 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007,  
5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122–5124, 5201, 5205, 5207, 5232,  
5273, 5301, 5313, 5555, 6109, 6302, 7805.

120. Section 27.11 is amended as follows:

a. In the definition of “Bonded premises—distilled spirits plant”, by adding  
a second sentence; and

b. In the definition of “Eligible wine”, by adding a second sentence.

The additions read as follows:

**§ 27.11 Meaning of terms.**

\* \* \* \*

Bonded premises—distilled spirits plant. \* \* \* This term includes  
premises described in the preceding sentence even if the distilled spirits plant  
proprietor, as authorized under the exemption set forth in § 19.151(d) of this  
chapter, has not provided a bond for the premises.

\* \* \* \*

Eligible wine. \* \* \* For purposes of this definition, the phrase “receipt  
in bond” applies to wine on which tax has not been determined or paid that is  
received by the proprietor of a distilled spirits plant, even if the proprietor, as

authorized under the exemption set forth in § 19.151(d) of this chapter, is not required to provide a bond for the premises where the wine is received.

\* \* \* \* \*

**§ 27.40 [Amended]**

**121.** In § 27.40, paragraph (a) is amended by removing the words “entered into bond” and adding, in their place, the words “transferred to the bonded premises of a distilled spirits plant”.

**§ 27.43 [Amended]**

**122.** Section 27.43 is amended by removing the words “entered into bond” and adding, in their place, the words “transferred to the bonded premises of a distilled spirits plant”.

**§ 27.171 [Amended]**

**123.** Section 27.171 is amended by removing the words “internal revenue bond” and adding, in their place, the words “the bonded premises of a distilled spirits plant”.

**124.** Section 27.175 is amended by adding a new second sentence immediately after the first sentence to read as follows:

**§ 27.175 Receipt by consignee.**

\* \* \* Proprietors of distilled spirits plants may receive such imported spirits even if they are exempt from bond requirements under § 19.151(d) of this chapter. \* \* \*

**PART 28—EXPORTATION OF ALCOHOL**

**125.** The authority citation for part 28 is revised to read as follows:

**Authority:** 5 U.S.C. 552(a); 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5041, 5051, 5054, 5061, 5121, 5122, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5555, 6109, 6302, 7805; 27 U.S.C. 203, 205; 44 U.S.C. 3504(h).

**§§ 28.61, 28.62, 28.63, 28.64, 28.70, 28.72, 28.160, and 28.214 [Amended]**

**126.** For each section indicated in the left-hand column of the table below, the section is amended by removing the text indicated in the middle column, and adding, in its place, the text indicated in the right-hand column:

<b>Section</b>	<b>Remove</b>	<b>Add</b>
28.61, section heading	Bond, Form 2734 (5100.25)	Bond, Form 5100.25
28.61, text	2734 (5100.25)	5100.25
28.62, section heading	Bond, Form 2735 (5100.30)	Bond, Form 5100.30
28.62(a)	2735 (5100.30)	5100.30
28.62(c)	2735 (5100.30)	5100.30
28.62(c)	1533 (5000.18)	5000.18
28.62(d)	2735 (5100.30)	5100.30
28.62(d)	1533 (5000.18)	5000.18
28.63, section heading	Bond, Form 2736 (5100.12)	Bond, Form 5100.12

28.63, text	2736 (5100.12)	5100.12
28.64, section heading	Bond, Form 2737	Bond, Form 5110.67
28.64(a), first sentence	2737 (5110.67)	5110.67
28.64(a), twice in the fourth sentence	2737 (5110.67)	5110.67
28.64(b)	2737 (5110.67)	5110.67
28.64(b)	1533	5000.18
28.70, section heading	Termination of Bonds, Forms 2734 (5120.25) and 2736 (5100.12)	Termination of Bonds, Forms 5120.25 and 5100.12
28.70, text	2734 (5120.25) and 27.36 (5100.12)	5120.25 and 5100.12
28.72	2735 (5100.30), 2737 (5110.67), or 2738 (5110.68)	5100.30 or 5110.67
28.160(b)	1533	5000.18
28.214, section heading	Notice and claim, Form 1582–A (5120.24)	Notice and claim, Form 5120.24
28.214, first sentence	1582–A (5120.24)	5120.24
28.214, second sentence	1582–A (5120.24)	5120.24

### **§ 28.3 [Amended]**

**127.** In § 28.3, the list of related regulations is amended by removing the entry “31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds” and adding, in its place, the entry “31 CFR part 225—Acceptance of Bonds Secured by Government Obligations in Lieu of Bonds with Sureties”.

**128.** Section 28.11 is amended as follows:

a. In the definition of “Bonded premises—distilled spirits plant”, by adding a second sentence; and

b. In the definition of “Bonded wine cellar”, by adding a second sentence.

The additions read as follows:

**§ 28.11 Meaning of terms.**

\* \* \* \* \*

Bonded premises—distilled spirits plant. \* \* \* This term includes premises described in the preceding sentence even if the distilled spirits plant proprietor, as authorized under the exemption set forth in § 19.151(d) of this chapter, has not provided a bond for the premises.

Bonded wine cellar. \* \* \* This term includes premises described in the preceding sentences even if the proprietor, as authorized under the exemption set forth in § 24.146(d), has not provided a bond for the premises.

\* \* \* \* \*

**§ 28.22 [Amended]**

**129.** Section 28.22 is amended by adding after the words “principal on the bond” the words “or, if no bond is required, against the person liable for the tax”.

**130.** Section 28.51 is amended as follows:

a. By redesignating the existing text as paragraph (a) and adding a paragraph heading; and

b. By adding paragraphs (b) and (c).

The additions read as follows:

**§ 28.51 General.**

(a) Bond requirements. \* \* \*



(b) Exemption from bond requirements. If a taxpayer described in this paragraph exports distilled spirits, wine, or beer for which a bond is otherwise required under this part, the taxpayer is not required to file a bond for the exportation if all the following are true:

(1) In the case of exportation of distilled spirits or wine, the distilled spirits or wine is for nonindustrial use; and

(2) The taxpayer:

(i) Reasonably expects to be liable for not more than \$50,000 in taxes described in 26 U.S.C. 5061(d)(4) during the current calendar year;

(ii) Was liable for not more than \$50,000 in such taxes in the preceding calendar year; and

(iii) Pays such taxes on a deferred basis using a semimonthly, quarterly, or annual return period as described in 26 U.S.C. 5061(d).

(c) Definitions. For purposes of paragraph (b) of this section, the following terms have the meanings indicated:

Nonindustrial use. The nonindustrial uses of distilled spirits and wine are defined in subpart D of part 1 of this chapter.

Reasonably expects. When used with reference to a taxpayer, reasonably expects means that there is no existing or anticipated circumstances known to the taxpayer (such as an increase in production capacity) that would cause the taxpayer's tax liability to exceed the prescribed limit.

Taxpayer. A taxpayer is an individual, corporation, partnership, or other entity that is assigned a single Employer Identification Number (EIN) as defined in 26 CFR 301.7701–12.

**131.** Section 28.52 is amended as follows:

**a.** In paragraph (a), by removing the words “Circular No. 570” and adding, in their place, the words “Circular 570”; and

**b.** By revising paragraph (b).

The revision reads as follows:

**§ 28.52 Corporate surety.**

\* \* \* \* \*

(b) Department of the Treasury Circular 570 is published in the Federal Register annually on the first business day in July, and supplemental changes are published periodically thereafter. The most recent circular and any supplemental changes to it may be viewed on the Bureau of the Fiscal Service Web site at <https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570.htm>.

\* \* \* \* \*

**132.** Section 28.53 is amended as follows:

**a.** By revising the section heading;

**b.** By redesignating the existing text as paragraph (a) and adding a paragraph heading; and

**c.** By adding paragraph (b).

The revision and additions read as follows:

**§ 28.53 Deposit of securities or cash (including cash equivalent) in lieu of corporate surety.**

(a) Deposit of securities. \* \* \*

(b) Deposit of cash (including cash equivalent). In lieu of corporate surety, a person may file a bond that guarantees payment of the liability by submitting cash or its equivalent (including a money order, cashier's check, or personal check). Cash or its equivalent must be no less than the penal sums of the required bonds. Cash equivalents must be payable to the Alcohol and Tobacco Tax and Trade Bureau.

\* \* \* \* \*

**§ 28.54 [Amended]**

**133.** Section 28.54 is amended by removing the words "Form 1533" and adding, in their place, the words "TTB Form 5000.18".

**134.** In § 28.58, paragraphs (a) and (b) are revised to read as follows:

**§ 28.58 Operations or unit bond—distilled spirits.**

(a) Spirits. Where, as authorized in § 28.91, spirits are withdrawn without payment of tax, from the bonded premises of a distilled spirits plant on notice of the proprietor thereof, the approved operations or unit bond must cover such withdrawals if the proprietor is required to give a bond under part 19 of this chapter.

(b) Wine. Where the provisions of part 19 of this chapter require an operations or unit bond to be given and approved to cover the operations of a distilled spirits plant and an adjacent bonded wine cellar, such bond will cover the

withdrawal of wine without payment of tax, as authorized in § 28.121, from such bonded wine cellar on application for such withdrawal by the proprietor.

\* \* \* \* \*

**135.** Section 28.60 is revised to read as follows:

**§ 28.60 Brewer's bond, Form 5130.22.**

When beer or beer concentrate is removed from a brewery without payment of tax for any of the purposes authorized in § 28.141, the brewer's bond, Form 5130.22, will cover the removals if a bond is required to be furnished under the provisions of part 25 of this chapter.

(49 Stat. 999, as amended (19 U.S.C. 81c); sec. 201, Pub. L. 85–859, 72 Stat. 1334, as amended, 1388, as amended (26 U.S.C. 5053, 5401))

**§ 28.65 [Removed and Reserved]**

**136.** Section 28.65 is removed and reserved.

**137.** Section 28.67 is revised to read as follows:

**§ 28.67 Superseding bonds and new bonds for previously exempt persons.**

(a) Superseding bonds. Superseding bonds will be required in case of insolvency or removal of any surety, and may, at the discretion of the appropriate TTB officer, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a superseding bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 28.72, the surety on any bond given

under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he must file a valid superseding bond to be effective on or before the date specified in the surety's notice. If the principal does not file a superseding bond when required, he must discontinue the operations intended to be covered by such bond forthwith. Superseding bonds must show the date of execution and the effective date.

(b) New bonds for previously exempt persons. If a person has not furnished a bond as provided in this subpart because the person was exempt from bond requirements under § 28.51(b), the person must furnish the required bond for any exportation that occurs during any period to which any of the exemption criteria in § 28.51(b) do not apply to the person.

(72 Stat. 1336, 1362; 26 U.S.C. 5062, 5214)

**138.** Section 28.71 is revised to read as follows:

**§ 28.71 Termination of bonds, Forms 5100.30 and 5110.67.**

(a) General. Continuing bonds, Forms 5100.30 and 5110.67, covering distilled spirits and/or wines withdrawn from time to time without payment of tax under this part, may be terminated as to liability for future withdrawals under the following circumstances:

- (1) Pursuant to application of surety as provided in § 28.72;
- (2) On approval of a superseding bond as provided in § 28.67; or
- (3) On written notification to the appropriate TTB officer by the principal of the discontinuance of withdrawals under the bond (including discontinuance of

withdrawals under the bond because the proprietor has become exempt from bond requirements under § 28.51(b)).

(b) Cancellation. When no further withdrawals are to be made under a bond on Form 5100.30 or 5110.67 under the circumstances specified in paragraph (a), the bond will be canceled by the appropriate TTB officer in the manner and subject to the conditions provided in § 28.70.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

**139.** Section 28.73 is revised to read as follows:

**§ 28.73 Relief of surety from bond.**

(a) Bonds, Forms 5120.25 and 5100.12. The surety on a bond given on Form 5120.25 or Form 5100.12 will be relieved from his liability under the bond when the bond has been canceled as provided for in § 28.70.

(b) Bonds, Forms 5100.30 and 5110.67. Where the surety on a bond given on Form 5100.30 or Form 5110.67 has filed application for relief from liability, as provided in § 28.72, the surety will be relieved from liability for withdrawals made wholly subsequent to the date specified in the notice, or on the effective date of a superseding bond, if one is given. Notwithstanding such relief, the liability of the surety will continue until the spirits and/or wines withdrawn without payment of tax under the bond have been properly accounted for.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1336, as amended, 1352, as amended, 1353, as amended (26 U.S.C. 5062, 5175, 5176))

**140.** Section 28.74 is revised to read as follows:

**§ 28.74 Release of pledged securities or cash (including cash equivalents).**

Securities of the United States, pledged and deposited as provided in § 28.53, will be released only in accordance with the provisions of 31 CFR part 225. Securities and cash (including cash equivalents) will not be released by the appropriate TTB officer until liability under the bond for which they were pledged has been terminated. When the appropriate TTB officer is satisfied that they may be released, he will fix the date or dates on which a part or all of such securities and cash (including cash equivalents) may be released. At any time prior to the release, the appropriate TTB officer may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

**§ 28.80 [Amended]**

**141.** Section 28.80 is amended by removing the last sentence.

**§ 28.91 [Amended]**

**142.** In § 28.91, paragraph (b) is amended by removing the words “All withdrawals” and adding, in their place, the words “Except as provided in § 28.51(b), all withdrawals”.

**§ 28.95 [Amended]**

**143.** Section 28.95 is amended by removing the words “in internal revenue bond” and adding, in their place, the words “on the bonded premises of a distilled spirits plant”.

**§ 28.96 [Amended]**

**144.** Section 28.96 is amended by removing the words “required bond” and adding, in their place, the words “bond (if required)”.

**§ 28.116 [Amended]**

**145.** In § 28.116, paragraph (d) is amended by removing the words “principal on the bond under which the spirits were withdrawn” and adding, in their place, the words “person who withdrew the spirits”.

**§ 28.117 [Amended]**

**146.** Section 28.117 is amended as follows:

**a.** In the first sentence, by removing the words “principal on the bond under which the spirits were withdrawn” and adding, in their place, the words “person who withdrew the spirits”; and

**b.** By removing the word “principal” in every other place it appears and adding, in its place, the word “person”.

**§ 28.121 [Amended]**

**147.** Section 28.121 is amended in the undesignated concluding paragraph by removing the words “All such withdrawals” and adding, in their place, the words “Except as provided in § 28.51(b), all such withdrawals”.



**§ 28.131 [Amended]**

**148.** In § 28.131, paragraph (b) is amended by removing the words “principal on the bond under which the wines were withdrawn” and adding, in their place, the words “person who withdrew the wines”.

**§ 28.132 [Amended]**

**149.** Section 28.132 is amended as follows:

**a.** In the first sentence, by removing the words “principal on the bond under which the wines were withdrawn” and adding, in their place, the words “person who withdrew the wines”;

**b.** In the second sentence, by removing the words “principal on the bond” and adding, in their place, the word “person”; and

**c.** By removing the word “principal” in every other place it appears and adding, in its place, the word “person”.

**§ 28.141 [Amended]**

**150.** In § 28.141, paragraph (c) is amended by removing the words “All removals” and adding, in their place, the words “Except where the brewer is not required to hold a bond under § 25.91(e) of this chapter, all removals”.

**§ 28.215 [Amended]**

**151.** Section 28.215 is amended as follows:

**a.** In the first sentence, by removing the words “from bond” and adding, in their place, the words “from bonded premises”;

**b.** By removing the words “Form 1582–A (5120.24)” and adding, in their place, the words “Form 5120.24”; and

c. By removing the words “Form 2605 (5120.20)” each place they appear and adding, in their place, the words “Form 5120.20”.

**§ 28.250 [Amended]**

**152.** Section 28.250 is amended as follows:

a. In the introductory text, by removing the words “, and the principal has filed bond, Form 2738 (5110.68)”;

b. In paragraph (a)(4), by removing the words “1582–A (5120.24)” and adding, in their place, the word “5120.24”.

**§ 28.303 [Amended]**

**153.** Section 28.303 is amended as follows:

a. In the introductory text, by removing the words “Form 2635 (5620.8)” and adding, in their place, the word “5620.8”;

b. In paragraph (e), by adding after the word “bond” the words “(as applicable)”.

**§ 28.317 [Amended]**

**154.** Section 28.317 is amended as follows:

a. In the introductory text, by removing the words “Form 2635 (5620.8)” and adding, in their place, the words “Form 5620.8”;

b. In paragraph (c), by adding after the word “bond” the words “(as applicable)”.

**§ 28.331 [Removed and Reserved]**

**155.** Section 28.331 is removed and reserved.

**§ 28.332 [Removed and Reserved]**

**156.** Section 28.332 is removed and reserved.

**157.** Section 28.333 is amended as follows:

- a.** By revising the section heading;
- b.** By removing the words “1582-A (5120.24)” in every place it appears and adding, in its place, the word “5120.24”;
- c.** By removing the words “, is not supported by a bond on Form 2738 (5110.68)” and adding, in their place, the words “is made”; and
- d.** By removing the words “Form 1582-B (5130.6)” and adding, in their place, the words “Form 5130.6”.

The revision reads as follows:

**§ 28.333 Claims for drawback.**

\* \* \* \* \*

**PART 30—GAUGING MANUAL**

**158.** The authority citation for part 30 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**159.** Section 30.11 is amended by adding a definition of “Bonded premises” in alphabetical order to read as follows:

**§ 30.11 Meaning of terms.**

\* \* \* \* \*

Bonded premises. The bonded premises of a distilled spirits plant as described in part 19 of this chapter. This term includes premises described in the preceding sentence even if the distilled spirits plant proprietor has not provided a bond for the premises as authorized under the exemption set forth in § 19.151(d) of this chapter.

\* \* \* \* \*

**§ 30.36 [Amended]**

**162.** Section 30.36 is amended by removing the words “from bond” and adding, in their place, the words “from bonded premises”.

Signed: December 7, 2016.

**John J. Manfreda,**

Administrator.

Approved: December 21, 2016.

**Timothy E. Skud,**

Deputy Assistant Secretary  
(Tax, Trade and Tariff Policy).

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